

<p style="text-align: center;">IN THE STATE OF ILLINOIS IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT COUNTY OF CHAMPAIGN</p> <p>-----</p> <p>RONALD ROME, Special Administrator ) of the estate of PHILIP ROME, ) deceased, ) Plaintiff, ) Case No. vs. ) 06-L-92 ABEX CORPORATION, et al. ) Defendants. )</p> <p>-----</p> <p style="text-align: center;">DISCOVERY DEPOSITION OF DR. BARRY I. CASTLEMAN</p> <p style="text-align: center;">Rockville, Maryland Tuesday, May 27, 2008</p>	<p style="text-align: right;">Page 3</p> <p style="text-align: center;">IN THE STATE OF ILLINOIS IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT COUNTY OF CHAMPAIGN</p> <p>-----</p> <p>RONALD ROME, Special Administrator ) of the estate of PHILIP ROME, ) deceased, ) Plaintiff, ) Case No. vs. ) 06-L-92 ABEX CORPORATION, et al. ) Defendants. )</p> <p>-----</p> <p style="text-align: center;">DISCOVERY DEPOSITION OF DR. BARRY I. CASTLEMAN</p> <p style="text-align: center;">Rockville, Maryland Tuesday, May 27, 2008</p> <p>The deposition of DR. BARRY I. CASTLEMAN was convened at 10:10 a.m. at the Legacy Hotel, 1775 Rockville Pike, Rockville, Maryland, before Karen K. Brynteson, Registered Merit Reporter, Certified Realtime Reporter, and Notary Public.</p> <p style="text-align: center;">- - - - -</p>
<p style="text-align: right;">Page 2</p> <p style="text-align: center;">I N D E X</p> <p>WITNESS: EXAMINATION: BARRY CASTLEMAN By Mr. Lee..... 6 By Mr. Schachter..... 111 By Mr. Lee..... 127</p> <p style="text-align: center;">E X H I B I T S</p> <p>EXHIBIT NO: DESCRIPTION PAGE NO: No. 1..... notice of deposition..... 10 No. 2..... gross earnings report.... 16 No. 3..... curriculum vitae..... 16 No. 4..... list of trial testimony.. 16 No. 5..... handwritten notes..... 16 No. 6..... Garlock file index..... 111 No. 7..... Owens-Illinois index..... 126 No. 8..... Owens-Illinois index..... 126</p> <p>(The original exhibits were retained by the court reporter to be attached to Mr. Lee's transcript.)</p>	<p style="text-align: right;">Page 4</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>ON BEHALF OF THE PLAINTIFFS:</p> <p>JOSEPH D. SATTERLEY, ESQ. Sales Tillman Wallbaum Catlett &amp; Satterley, PLLC 1900 Waterfront Plaza 325 West Main Street Louisville, Kentucky 40202 (502) 589-5600</p> <p>ON BEHALF OF CBS CORPORATION:</p> <p>JOHN BORNHOFEN, ESQ. (Telephonically) Foley &amp; Mansfield - St. Louis 1001 Highlands Plaza Drive West Suite 400 St. Louis, MO 63110 (314) 645-7788</p> <p>ON BEHALF OF SELAS CORPORATION OF AMERICA:</p> <p>SCOT PFEIFFER, ESQ. (Telephonically) Gunty &amp; McCarthy 150 South Wacker Drive Suite 1025 Chicago, IL 60606 (312) 541-0022</p> <p>ON BEHALF OF OWENS-ILLINOIS:</p> <p>JOSHUA D. LEE, ESQ. Schiff Hardin LLP 6600 Sears Tower Chicago, IL 60606 (312) 258-5649</p>

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<p>1 APPEARANCES (Continued):</p> <p>2</p> <p>3 ON BEHALF OF GARLOCK SEALING TECHNOLOGIES, LLC:</p> <p>4 CARY SCHACHTER, ESQ., (Telephonically)</p> <p>5 in association with,</p> <p>6 Segal McCambridge Singer &amp; Mahoney</p> <p>7 233 South Wacker Drive</p> <p>8 Suite 5500</p> <p>9 Chicago, IL 60606</p> <p>10 (312) 645-7800</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 that case?</p> <p>2 <b>A. No, I don't bother reading all</b></p> <p>3 <b>documents involved that you lawyers exchange</b></p> <p>4 <b>with each other in these cases.</b></p> <p>5 Q. So all that you know about this case</p> <p>6 is what you have learned from Mr. Satterley</p> <p>7 this morning?</p> <p>8 <b>A. That's right.</b></p> <p>9 Q. What did Mr. Satterley share with you?</p> <p>10 <b>A. He told me that Mr. Rome died in his</b></p> <p>11 <b>early '70s from pleural mesothelioma and from</b></p> <p>12 <b>1955 to 1991 he was an operator and a</b></p> <p>13 <b>maintenance worker at a national distilleries</b></p> <p>14 <b>and chemical plant in Tuscola, Illinois,</b></p> <p>15 <b>T-u-s-c-o-l-a, that he was exposed to</b></p> <p>16 <b>insulation, both from hands-on exposure and as</b></p> <p>17 <b>a bystander, that there was a band saw in the</b></p> <p>18 <b>shop where they cut the insulation, that he was</b></p> <p>19 <b>also exposed to gaskets as a bystander to the</b></p> <p>20 <b>removal of old gasketing from flanges and so</b></p> <p>21 <b>on.</b></p> <p>22 <b>He was never provided with respirators</b></p> <p>23 <b>or warnings about the hazards of asbestos. And</b></p> <p>24 <b>the defendants I have been told are</b></p> <p>25 <b>Owens-Illinois, Sprinkmann, Garlock, GE, SELAS</b></p>
Page 6	Page 8
<p>1 <b>PROCEEDINGS</b></p> <p>2 -----</p> <p>3 Whereupon--</p> <p>4 <b>DR. BARRY J. CASTLEMAN,</b></p> <p>5 <b>having been first duly sworn, was examined and</b></p> <p>6 <b>testified as follows:</b></p> <p>7 <b>EXAMINATION</b></p> <p>8 <b>BY MR. LEE:</b></p> <p>9 Q. Good morning, Dr. Castleman.</p> <p>10 <b>A. Good morning.</b></p> <p>11 Q. My name is Joshua Lee. I don't think</p> <p>12 we have met before today. So, as you probably</p> <p>13 know, I represent a company called</p> <p>14 Owens-Illinois. And I am here to ask you some</p> <p>15 questions today with regard to a case called</p> <p>16 Rome versus Abex Corporation, et al.</p> <p>17 Are you familiar with that case?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. And how are you familiar with that</p> <p>20 case?</p> <p>21 <b>A. Well, I reviewed the basic facts in</b></p> <p>22 <b>the case with plaintiff's counsel,</b></p> <p>23 <b>Mr. Satterley, this morning, and that's how I</b></p> <p>24 <b>am familiar with it.</b></p> <p>25 Q. Have you reviewed the complaint in</p>	<p>1 <b>Corporation, Riley Stoker, Crown Cork and Seal</b></p> <p>2 <b>and Westinghouse.</b></p> <p>3 Q. I see that you are referring to some</p> <p>4 notes here. May I take a look at those?</p> <p>5 <b>A. Sure.</b></p> <p>6 Q. Are these your notes from your meeting</p> <p>7 this morning with Mr. Satterley?</p> <p>8 <b>A. They are.</b></p> <p>9 Q. Dr. Castleman, based on your</p> <p>10 discussions this morning with Mr. Satterley,</p> <p>11 you have a list of defendants here which you</p> <p>12 named just a few moments ago. Is it your</p> <p>13 understanding that those were the only</p> <p>14 defendants ever in this case?</p> <p>15 <b>A. There may have been others before. I</b></p> <p>16 <b>didn't ask about that.</b></p> <p>17 Q. I note that Pneumo-Abex or Abex</p> <p>18 Corporation is not on this list.</p> <p>19 <b>A. I noted that too when you told me the</b></p> <p>20 <b>name of the case, I realized I didn't have Abex</b></p> <p>21 <b>on the list, so I suppose Abex maybe resolved</b></p> <p>22 <b>their situation and maybe not. I don't know.</b></p> <p>23 <b>That's between Abex and plaintiff's counsel, I</b></p> <p>24 <b>suppose.</b></p> <p>25 Q. All right. You did not inquire</p>

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<p>1 whether there were any other defendants ever in 2 this case; is that right? 3 <b>A. That's right.</b> 4 Q. You did not -- did you inquire at all 5 as to what Mr. Rome's actual exposure to any 6 asbestos-containing products might have been? 7 <b>A. No, not as to individual products.</b> 8 Q. Why is it that you did not inquire as 9 to exposure to individual products? 10 <b>A. Because that's not evidence that's</b> 11 <b>coming into this case through me. That's</b> 12 <b>coming in through other witnesses. I testify</b> 13 <b>about what the defendants knew or could have</b> 14 <b>known or should have known about the hazards of</b> 15 <b>asbestos and hazards of the products.</b> 16 Q. Would it matter to you the time frame 17 in which Mr. Rome might have been exposed to 18 any individual defendant's products? 19 <b>A. I don't think so. I mean, I'm not</b> 20 <b>sure I understand your question, but I'm not</b> 21 <b>testifying on causation in these cases either.</b> 22 Q. All right, Dr. Castleman. I am going 23 to mark as Exhibit 1 the notice for your 24 deposition today. 25 (Deposition Exhibit Number 1 was marked for</p>	<p>1 documents from you? 2 <b>A. He did. Well, he got them from Albert</b> 3 <b>Donnay, who supplies copies of my documents to</b> 4 <b>lawyers, plaintiff and defense.</b> 5 Q. Did you take any part in choosing the 6 documents that would be produced today? 7 <b>A. No. I mean, these are just files,</b> 8 <b>these are some of my files that Mr. Satterley</b> 9 <b>chose to produce because of the defendants</b> 10 <b>involved in the case, I imagine.</b> 11 Q. Do you have any understanding as to 12 the various theories, legal theories under 13 which this case is proceeding? 14 <b>A. No, I am not a lawyer.</b> 15 Q. Well, Dr. Castleman, I mean, you 16 understand that there are various types of 17 legal theories under which a case like this can 18 proceed, negligence, strict liability. I 19 believe you have testified in conspiracy cases 20 before; is that right? 21 <b>A. Yes, I have.</b> 22 Q. Okay. Do you know the theories under 23 which this case is going to proceed? 24 <b>A. Well, I know --</b> 25 <b>MR. SATTERLEY: Objection, asked and</b></p>
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<p>1 identification.) 2 BY MR. LEE: 3 Q. Have you seen the notice for your 4 deposition? 5 <b>A. I don't know if I have or not. I</b> 6 <b>think the plaintiff's lawyer e-mailed it to me</b> 7 <b>but -- no, I don't think I have ever seen that.</b> 8 MR. SATTERLEY: I don't need a copy of 9 it. 10 MR. LEE: You don't need a copy? 11 MR. SATTERLEY: No. 12 THE WITNESS: We discussed that this 13 morning, but I didn't actually sit down and 14 read it line by line. 15 BY MR. LEE: 16 Q. So would the first time that you have 17 seen the notice for your deposition in this 18 case have been this morning? 19 <b>A. Yes. Well, I didn't even actually</b> 20 <b>look at it then. We just talked about it.</b> 21 Q. Okay. I notice that you have provided 22 for us today a series of binders with some 23 documents in them; is that right? 24 <b>A. Well, Mr. Satterley did, yes.</b> 25 Q. Okay. Did Mr. Satterley get those</p>	<p>1 answered. 2 THE WITNESS: I know conspiracy is one 3 of the issues involved, and I suppose the rest 4 is the usual stuff. 5 BY MR. LEE: 6 Q. How did you come to learn that 7 conspiracy was an issue in this case? 8 <b>A. Mr. Satterley told me so.</b> 9 Q. This morning? 10 <b>A. Yes.</b> 11 Q. Dr. Castleman, if you will take a look 12 at what is the fourth page in to the notice for 13 your deposition. 14 <b>A. Exhibit B, you mean?</b> 15 Q. Yes. 16 <b>A. Okay. What do you want to ask me</b> 17 <b>about that?</b> 18 Q. Well, these are the documents that we 19 requested that you bring with you today from 20 your files. 21 MR. SATTERLEY: Let me place an 22 objection. We filed an objection with the 23 Court and set forth the objection and I don't 24 believe there has been a subpoena issued upon 25 Dr. Castleman requiring him to bring anything</p>

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<p>1 to the deposition. Out of courtesy, we have 2 brought a number of documents to the 3 deposition, as well as additional copy of his 4 book, the fifth edition of his book, Asbestos, 5 Medical and Legal Aspects, so we would object 6 to him, no requirement that he bring -- 7 undertake all the research, spend time 8 necessary to bring all these documents. 9 In addition, we have advised you that 10 you can get any of these documents from Albert 11 Donnay. 12 BY MR. LEE: 13 Q. Well, Dr. Castleman, let me ask you 14 this: Mr. Donnay, when he provides documents 15 to various attorneys, do you go to him and tell 16 him that these are the documents that are 17 responsive to the requests -- 18 A. No. 19 Q. -- to these attorneys? He just pulls 20 whatever he feels is relevant? 21 A. Well, he has a list of my files. He 22 scanned all these files. So there is a file on 23 Owens-Illinois. He scanned all those 24 documents. So if anybody wants to know the 25 Owens-Illinois file, they call him and they say</p>	<p>1 scanned that. 2 Q. And I guess what I'm getting at, 3 Doctor, it is my understanding if we were to go 4 to Mr. Donnay and ask him for particular 5 documents that would be responsive to these 6 questions, he might not have the knowledge to 7 pull these documents; is that right? 8 A. That's right. 9 Q. And so just going to Mr. Donnay would 10 not get us responses that would be -- would not 11 get us documents that would necessarily be 12 responsive to the specific questions that we 13 have asked; is that right? 14 A. That's right. 15 Q. And it is my understanding that other 16 than the documents that you have with regard to 17 Owens-Illinois and with regard to Garlock, 18 there are no other documents that have been 19 produced here today; is that correct? 20 MR. SATTERLEY: That's incorrect. We 21 have his CV. We have case lists. We have his 22 fees for the last five, six years. We have his 23 book. So that's not an accurate statement. 24 MR. LEE: I'm sorry, counsel. I had 25 not seen these other documents here. I did not</p>
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<p>1 give me the Owens-Illinois file and tell me how 2 much I owe you. 3 Q. Do you have a document on the 4 Asbestosis Research Council, a file on that? 5 A. I don't know if I do or not. I have a 6 bunch of -- I mean, I haven't looked at that 7 stuff in about 15 years. Probably I do have a 8 file on Asabestosis Research Council. I don't 9 think anyone has ever requested those documents 10 before or Albert would have them on the list of 11 files that he has scanned that he provides to 12 lawyers. 13 Q. Okay. 14 A. I suppose if I have such a file, it 15 could be arranged for him to pick it up and 16 scan it and, you know, and send it to you. 17 Q. If we were to go to Mr. Donnay and ask 18 him for all documents, for instance, that were 19 relied on by you for your statement on page 38 20 of the fourth edition of your book, the Federal 21 Trade Commission investigated this arrangement 22 and found it to be illegal, would Mr. Donnay be 23 able to pull those documents for us? 24 A. I don't know, but there is an FTC file 25 that he could send you. I think he has already</p>	<p>1 know what they were. 2 MR. SATTERLEY: As a courtesy, we 3 brought these documents, seven binders that I 4 had to Federal Express up here as a courtesy. 5 MR. LEE: I appreciate that. I am 6 trying to get at whether we got the documents 7 we asked for. 8 MR. SATTERLEY: Other than that, you 9 don't. 10 MR. LEE: Okay. 11 MR. SATTERLEY: So everybody on the 12 phone knows, Owens-Illinois' counsel is 13 reviewing the case list, the CV, and the list 14 of compensation. 15 MR. LEE: All right. Can we mark 16 these subsequent? 17 (Deposition Exhibit Numbers 2, 3 and 4 were marked 18 for identification.) 19 BY MR. LEE: 20 Q. All right, Doctor. Doctor, I am going 21 to keep ahold of this. I am going to mark your 22 notes as an exhibit as well, which I think will 23 be Exhibit 5. 24 (Deposition Exhibit Number 5 was marked for 25 identification.)</p>

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1 BY MR. LEE:

2 Q. Dr. Castleman, what is your  
3 understanding about the topics on which you  
4 have been identified to testify in this case?

5 **A. I'm going to testify about the public  
6 health and corporate history of asbestos.  
7 That's my understanding.**

8 Q. Do you intend to give any testimony  
9 with regard to issues relating to conspiracies?

10 **A. Probably.**

11 Q. You don't know?

12 **A. Well, I don't know until I'm asked the  
13 questions, but I understand conspiracy is an  
14 issue in the case and the lawyers have decided  
15 what questions they want to ask me about  
16 conspiracy.**

17 MR. LEE: Let me just state for the  
18 record that Dr. Castleman's disclosure has been  
19 filed since last year.

20 MR. LEE: I understand. I am trying  
21 to get an understanding of what he understands  
22 he is going to testify to. Sometimes those two  
23 things don't match up and that has happened  
24 before when Dr. Castleman has testified.

25 MR. SATTERLEY: Dr. Castleman, just

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1 for your benefit, your disclosure in the case I  
2 set before you there and you can refer to it if  
3 you want.

4 BY MR. LEE:

5 Q. Dr. Castleman, have you ever seen this  
6 disclosure before?

7 **A. I started looking through it this  
8 morning. I didn't read through the whole  
9 thing. The part that I read through looked  
10 fine.**

11 Q. Okay. Would it be your testimony then  
12 that since you have not read through the whole  
13 disclosure, you may not, in fact, know the  
14 whole scope of your -- of the topics on which  
15 you may testify in this case?

16 **A. Look, as far as I understand, these  
17 disclosure forms are perfunctory legal papers  
18 that are filed in every case by every lawyer  
19 that uses me in these cases. And the lawyers  
20 use each their own particular expression of  
21 what it is I testify about.**

22 **And I don't concern myself for the  
23 most part with proofreading, if you will, how  
24 the lawyers express these things to the courts,  
25 nor do I know about the peculiarities of**

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1 **individual state laws in which, under which the  
2 lawyers are operating.**

3 **And so, you know, I will be happy to  
4 answer your questions about what I know, but I  
5 don't write these documents and I don't take  
6 responsibility for them.**

7 Q. Okay. Dr. Castleman, it is my  
8 understanding that you -- and understand, some  
9 of these questions you may have been asked  
10 before, but I have never met you before. Is  
11 that right?

12 **A. Right. You have obviously read a  
13 bunch of my testimony. It is your three hours.  
14 You can do whatever you want with it.**

15 Q. All right.

16 MR. SATTERLEY: His and the rest of  
17 the folks on the phone.

18 THE WITNESS: Right.

19 BY MR. LEE:

20 Q. Dr. Castleman, you described yourself  
21 as a scientist; is that right?

22 **A. Yes.**

23 Q. And you have a Ph.D. from Johns  
24 Hopkins in 1984?

25 **A. It is technically called a Doctor of**

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1 **Science degree from Johns Hopkins School of  
2 Public Health.**

3 Q. And your degree was in public health?

4 **A. Well, it was technically a Doctor of  
5 Science Degree from the School of Public  
6 Health. They also have a Doctor of Public  
7 Health degree that some lawyers have spent  
8 arguing with me about too.**

9 Q. And I am not trying to argue with you  
10 about it.

11 **A. I didn't say you were.**

12 Q. I am trying to make sure I am right.

13 **A. I am just explaining.**

14 Q. Am I right your doctorate is in the  
15 field of public health?

16 **A. Yes, sir.**

17 Q. Okay. You are not a medical doctor;  
18 is that right?

19 **A. I am not a medical doctor.**

20 Q. Are you a historian?

21 **A. Well, I have written a lot about the  
22 history in the field of occupational health.**

23 Q. Are you a trained historian?

24 **A. I am not trained as a historian, but  
25 the historian for the Johns Hopkins medical**

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1 institutions was one of the faculty members on  
2 my thesis committee.

3 Q. You are not a trained historian; is  
4 that correct?

5 A. I can't add anything to what I just  
6 told you. You've got your three hours.

7 Q. You are not a lawyer?

8 A. No, sir.

9 Q. But what you claim to do is tell the  
10 history of asbestos in a comprehensive manner;  
11 is that right?

12 A. Yes.

13 Q. What method did you employ in  
14 conducting the research for your book?

15 A. I have read everything that I could  
16 find that had been documented about history,  
17 the public health history of asbestos, stuff  
18 that had been published in scientific and  
19 medical journals, stuff that had been published  
20 in engineering journals, safety publications,  
21 industry trade magazines, insurance industry  
22 publications.

23 I went to the archives of scientists  
24 and institutions that had done work on  
25 asbestos, the Federal Government archives,

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1 government records on worker's compensation  
2 claims. I have read testimony of old timers in  
3 the field and people who were involved for the  
4 companies or with the companies historically,  
5 testified about their historic involvement and  
6 knowledge and actions.

7 I had personally interviewed them, a  
8 number of the old timers in the field. That's  
9 basically the method, if you will, of doing  
10 historical research. Until we invent a time  
11 machine, I think it is the only method.

12 Q. Well, can you tell me actually what  
13 the historical method is?

14 A. I just did.

15 Q. Well, you told me what you did. Can  
16 you define the historical method for me?

17 A. I don't know what you mean by  
18 "historical method." That sounds like lawyer  
19 talk to me.

20 Q. Can you define the meaning of external  
21 criticism for me?

22 A. I don't know what people mean by that  
23 phrase. I mean, I understand the translation  
24 of the words, but I don't understand it as a  
25 professional jargon phrase.

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1 Q. Can you define the term internal  
2 criticism for me?

3 A. I know what internal and I know what  
4 criticism mean, but beyond that, I don't have  
5 any associations with those words.

6 Q. So you can't tell me for what purpose  
7 you would apply internal criticism in  
8 historical research; is that right?

9 A. No, I don't know what you mean by that  
10 term.

11 Q. The same would be true with regard to  
12 external criticism, you can't tell me what that  
13 would be used for in historical research; is  
14 that right?

15 A. No. I mean, like I say, I am not here  
16 to talk about professional jargon in doing  
17 historical research. I talk about the research  
18 that I did, not about people who write about  
19 people who do historical research and invent  
20 these phrases.

21 Q. Can you tell me the person who first  
22 wrote on the historical method?

23 A. No. I don't know that anyone can be  
24 said to be the first person who wrote on the  
25 historical method.

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1 Q. Doctor, would you agree that in  
2 presenting a historical analysis and conducting  
3 historic research, you want to avoid as much as  
4 possible the risk of presentism?

5 A. That's another interesting example of  
6 how academics justify their existence by  
7 inventing new words. I don't know what whoever  
8 used that term meant by that.

9 Q. Do you know what presentism is?

10 A. No, I have never heard the word, and I  
11 think you might be challenged to try and find a  
12 dictionary that would include it.

13 MR. SATTERLEY: How do you spell  
14 presentism?

15 MR. LEE: P-r-e-s-e-n-t-i-s-m.

16 MR. SATTERLEY: Thank you very much.  
17 BY MR. LEE:

18 Q. Doctor, would you agree that in doing  
19 historical research and analysis, you want to  
20 avoid taking what we know now, today, and  
21 imposing our knowledge on people who live 50,  
22 60, 70 or 100 years ago?

23 A. Yes. I mean, if you want to say what  
24 people knew back then, you would have to try  
25 and base it on what was known and known back

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<p>1 then.</p> <p>2 Q. Also you have to avoid trying to</p> <p>3 impose our understanding as their</p> <p>4 understanding; is that right?</p> <p>5 A. I suppose so, yes. I mean, you know,</p> <p>6 that's why I rely so much on corporate</p> <p>7 documents to say what people knew historically.</p> <p>8 Q. And would you agree that you want to</p> <p>9 approach any historical analysis without a</p> <p>10 preconceived notion of the result?</p> <p>11 A. Yes, that's the scientific way of</p> <p>12 doing things.</p> <p>13 Q. And you would agree that a historian</p> <p>14 would want to approach any historical analysis</p> <p>15 without applying any leftist or rightist</p> <p>16 perspective; is that right?</p> <p>17 A. Well, you basically want to look at</p> <p>18 whatever evidence you find in the most open way</p> <p>19 in terms of understanding what people meant by</p> <p>20 what they said, what people were thinking, what</p> <p>21 people were doing at the time.</p> <p>22 Q. Would you agree that if a historical</p> <p>23 researcher starts their analysis with a</p> <p>24 preconceived notion, they would be tempted to</p> <p>25 stop searching for information when they found</p>	<p>1 I have never been shown a corporate document</p> <p>2 that turned out to be a forgery or fraudulent</p> <p>3 document as far as I'm concerned. So it</p> <p>4 doesn't really matter who gives me the</p> <p>5 document, if it is a historic document, and it</p> <p>6 appears to be, and is consistent with</p> <p>7 everything else I know to be looking like a</p> <p>8 bona fide historic document, then I will</p> <p>9 consider it as such and factor that into</p> <p>10 whatever decisions I make on the matters</p> <p>11 involved.</p> <p>12 I mean, I don't believe anything</p> <p>13 anybody tells me, unless I see the</p> <p>14 documentation. I just developed that habit</p> <p>15 being in this litigation all these years and</p> <p>16 for reasons that you can well understand.</p> <p>17 Q. How many times have you testified at</p> <p>18 trial in asbestos cases, Doctor?</p> <p>19 A. Over 300.</p> <p>20 Q. And in those over 300 times you have</p> <p>21 testified almost exclusively at the request of</p> <p>22 plaintiffs and against defendants; is that</p> <p>23 right?</p> <p>24 A. I have testified almost exclusively at</p> <p>25 the invitation of plaintiffs, that's right.</p>
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<p>1 data that confirmed their perspective?</p> <p>2 A. That sounds more like a lawyer making</p> <p>3 his case. It wouldn't be a very good way for</p> <p>4 anybody who is calling himself a historian to</p> <p>5 proceed. I mean, the historian would want to</p> <p>6 look at all the possible evidence and all the</p> <p>7 possible interpretations of the evidence in</p> <p>8 order to understand in a scientific way what</p> <p>9 happened.</p> <p>10 Q. You have to consider a broad spectrum</p> <p>11 of data in order to get an effective image or</p> <p>12 pictures of what things were like in the past;</p> <p>13 is that right?</p> <p>14 A. Yes. I basically have tried to</p> <p>15 consider all the documentation and evidence</p> <p>16 available about the history of the things I</p> <p>17 talk about.</p> <p>18 Q. Would you agree that in analyzing the</p> <p>19 data they have, a historian must also consider</p> <p>20 for whom they are receiving the information</p> <p>21 they are relying on?</p> <p>22 A. From whom?</p> <p>23 Q. Yes.</p> <p>24 A. Yes, but, again, it depends on the</p> <p>25 information. I mean, the corporate documents,</p>	<p>1 Q. Have you ever testified at trial on</p> <p>2 behalf of a defendant?</p> <p>3 A. At the request of a defendant, yes,</p> <p>4 one time.</p> <p>5 Q. And what was that?</p> <p>6 A. It was a case of the United States</p> <p>7 Government was the defendant and the plaintiff</p> <p>8 was Johns-Manville Corporation. The case was</p> <p>9 in the U.S. Court of Claims.</p> <p>10 Q. How many times have you testified in</p> <p>11 depositions?</p> <p>12 A. I have been subjected to over 500</p> <p>13 depositions over 30 years so far.</p> <p>14 Q. How much do you charge for your time,</p> <p>15 Doctor?</p> <p>16 A. \$300 an hour.</p> <p>17 Q. Are you paid to testify at trial?</p> <p>18 A. Most of the time.</p> <p>19 Q. And are you paid to testify at</p> <p>20 deposition?</p> <p>21 A. Most of the time.</p> <p>22 MR. SATTERLEY: Did you bring a check</p> <p>23 today?</p> <p>24 MR. LEE: I have not.</p> <p>25 MR. SATTERLEY: We will get your card</p>

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<p>1 before the end. 2 BY MR. LEE: 3 Q. Why is it that you use the word 4 "subjected" when you say that you are subjected 5 to depositions, Doctor? 6 A. Because I consider my life time the 7 most precious thing I have. And I have left 8 behind hundreds and hundreds of transcripts, a 9 900-page book, file cabinets full of documents. 10 They are all available to the defense lawyers. 11 There is nothing new for me to say 12 about most of these defendants. And the 13 lawyers keep on taking my deposition anyway. I 14 generally refer to my depositions as redundant 15 depositions. 16 And even though I usually get paid for 17 doing them, I would far prefer not to do any 18 depositions at all and let you guys keep your 19 money. That's why. I think they are a 20 complete waste of time. 21 Q. Dr. Castleman, you made approximately 22 \$340,000 for testifying in asbestos litigation 23 last year; is that right? 24 A. Yes. 25 Q. And the year before that you made</p>	<p>1 I'm going to say, I am more than happy to show 2 up at trials and help the judicial process 3 resolve these people's cases. 4 It is just the depositions that are -- 5 I mean, I think that most of the defense 6 lawyers are ripping off their own clients 7 running up a bill deposing me. I really do. 8 That may not apply to you, but I mean I really 9 do think that that's very widely true. I have 10 had defendants show up at ten depositions in a 11 single year, defendant companies. 12 Q. Dr. Castleman, have you done any 13 research within the last two years specifically 14 with regard to Owens-Illinois? 15 A. No. 16 Q. Have you been provided with any 17 documents within the last two years with regard 18 to Owens-Illinois? 19 A. No. 20 Q. The last edition of your book was 21 published in what year was it, Doctor? 22 A. 2004/2005. 23 Q. Are you planning on publishing a new 24 edition of your book any time? 25 A. No.</p>
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<p>1 almost \$300,000 testifying in asbestos 2 litigation; is that right? 3 A. Well, you have the figures in front of 4 you. 5 Q. And the year before that, 2005, you 6 made approximately \$250,000 testifying in 7 asbestos litigation; is that right? 8 A. Right. 9 Q. It is my understanding, Doctor, that 10 you don't get paid for most of the work you do 11 outside of asbestos litigation; is that right? 12 A. That's right. 13 Q. And so what you're telling me today is 14 that you would prefer not to testify and not to 15 make these, this amount of money, and instead 16 to go about your business making no money doing 17 everything else? 18 A. That's not what I said. I said I 19 would prefer not to be pestered with all these 20 redundant depositions. The trials, I don't 21 mind. You know, if the plaintiffs and the 22 defendants aren't able to resolve their 23 discussions any other way than to go to trial 24 in cases, and I am listed as a witness in the 25 case, and the defendants know darn well what</p>	<p>1 Q. It is true, Doctor, that large 2 portions of your book are identical to your 3 doctoral dissertation; is that right? 4 A. They were in the first edition. And 5 generally it has just been expanded since then. 6 Q. And a lot of the research for your 7 book was paid for by plaintiffs' attorneys; is 8 that right? 9 A. A lot of the research into discovering 10 some of the documents and examining them 11 originally was work that was done for 12 plaintiffs' lawyers and plaintiffs' lawyers 13 didn't pay me to write my doctoral thesis, of 14 course. 15 Q. The dust cover of your first edition 16 said to attorneys in asbestos litigation, this 17 book offers a complete documentation on the 18 development of knowledge about asbestos 19 hazards; is that right? 20 A. I think so. I didn't write the dust 21 cover. I wrote the book. 22 Q. Well, that was a little overboard, 23 wasn't it, Doctor? 24 A. Usually promotional materials are 25 imprecise and overbroad or exaggerated. I had</p>

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1 **other disputes with the publisher about that**  
 2 **dust cover too. They informed me they owned**  
 3 **the book, I was just the author.**

4 Q. You certainly haven't studied all the  
 5 documents relevant to the development of  
 6 knowledge on asbestos, have you?

7 A. No one probably could. I mean, there  
 8 are constantly new documents being -- that are  
 9 emerging. And all I have attempted to do is  
 10 tell as completely as possible from a public  
 11 health point of view the essential story to the  
 12 extent that that can be done in a 900-page  
 13 book.

14 Q. You haven't done an exhaustive search  
 15 of newspapers with regard to the development of  
 16 knowledge on asbestos, have you?

17 A. What's exhaustive? I mean, we now are  
 18 able to word search The New York Times and, you  
 19 know, come up with articles on asbestos and  
 20 cancer in 1948 and 1949 that I had never seen  
 21 until two or three years ago. I am coming up  
 22 with more and more articles in newspapers. I  
 23 keep a file that keeps growing on newspapers  
 24 and magazine publications about asbestos.  
 25 That's one of the files you can order from

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1 **Albert Donnay.**

2 I am constantly adding to it when new  
 3 things come to mind, articles in places like  
 4 Business Week in 1948 that talk about Dr.  
 5 Heuper's work and cancer from asbestos. But  
 6 comprehensive? Comprehensive is sitting down  
 7 and looking at every page of every newspaper  
 8 that was ever published in the world down at  
 9 the Library of Congress, I suppose.

10 Q. You haven't done an exhaustive search  
 11 of newspapers with regard to the development of  
 12 knowledge on asbestos, have you, Doctor?

13 MR. SATTERLEY: Objection.

14 THE WITNESS: I can't add anything to  
 15 the lengthy and detailed answer I just gave you  
 16 on that question.

17 BY MR. LEE:

18 Q. I don't think I actually got a  
 19 complete answer to that question, Doctor. I  
 20 got an explanation of what you think might go  
 21 into an answer to that question, but --

22 A. Okay. Why don't you define the terms  
 23 then. Tell me what you mean by lengthy and  
 24 comprehensive because I just told you what I  
 25 did.

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1 Q. I didn't say lengthy or comprehensive,  
 2 Doctor. I said you haven't done an exhaustive  
 3 search of newspapers --

4 A. Exhaustive.

5 Q. -- with regard to the development of  
 6 knowledge on asbestos, have you?

7 A. Exhaustive? Okay. I haven't found  
 8 every single story on asbestos that ever  
 9 appeared in any newspaper in the history of the  
 10 world, that's correct, if that's what you mean  
 11 by an exhaustive search.

12 Q. What about newspapers in the United  
 13 States?

14 A. I have looked at some of them. Some  
 15 of them you can look at, you know, by word  
 16 searching them through the computer capability  
 17 now available. Many of them you can't. I have  
 18 looked at a number of those through a number of  
 19 those that you can access in that way. But  
 20 there are bound to be newspapers that I haven't  
 21 seen, newspaper articles. I'm sure there are  
 22 newspaper articles I haven't seen or heard of  
 23 that have appeared on asbestos.

24 And I don't know how anybody would  
 25 find them. The way I found them has been

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1 sometimes because the documents are mentioned  
 2 in internal corporate correspondence, a number  
 3 of things that come up that way because the  
 4 companies are talking about something that  
 5 appeared in Newsweek or Scientific American or  
 6 something like that. Otherwise I wouldn't have  
 7 found those.

8 Then there is the capability of word  
 9 searching, which is much more recent. And so,  
 10 you know, that's what I have done. I suppose  
 11 there are plenty of newspaper articles that  
 12 talk about asbestos and its hazards that I have  
 13 never seen, not probably so many before 1970,  
 14 but certainly more recent ones, I haven't even  
 15 begun to try and read all of those. I mean,  
 16 there are newspaper stories that come out on  
 17 asbestos and its hazards somewhere in the world  
 18 every week.

19 Q. Doctor, sticking with just the United  
 20 States, what newspapers have you done an  
 21 exhaustive research of?

22 A. I haven't done an exhaustive research  
 23 on any of them. To do an exhaustive research,  
 24 as I understand the word, and that's what I was  
 25 asking you to define, you have to look at every

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<p>1 <b>page of every newspaper. That's exhaustive.</b></p> <p>2 <b>And I haven't done that.</b></p> <p>3 Q. What newspapers have you gone through</p> <p>4 and done a word search on for asbestos?</p> <p>5 <b>A. New York Times. I have had someone</b></p> <p>6 <b>working with me to do some of this, and I don't</b></p> <p>7 <b>know exactly what the methods he has used has</b></p> <p>8 <b>been, but I know he is very thorough. That's</b></p> <p>9 <b>Steven Berger, the author of chapter 6 of my</b></p> <p>10 <b>book. But he has picked up stuff from the Los</b></p> <p>11 <b>Angeles Times, Business Week, I think there may</b></p> <p>12 <b>be some in the Chicago papers, but I am not</b></p> <p>13 <b>sure.</b></p> <p>14 <b>In any case, whatever I have been able</b></p> <p>15 <b>to accumulate is available in the file of</b></p> <p>16 <b>newspaper articles that you can order from</b></p> <p>17 <b>Albert Donnay.</b></p> <p>18 Q. Let me ask you about Mr. Donnay for a</p> <p>19 second, since he has been mentioned a few</p> <p>20 times. How is it that Mr. Donnay came to have</p> <p>21 your files?</p> <p>22 <b>A. He is a personal friend. I worked for</b></p> <p>23 <b>his father, who was a Hopkins professor, when I</b></p> <p>24 <b>was 19 years old and Albert was seven. And so</b></p> <p>25 <b>at some point maybe five or maybe eight years</b></p>	<p>1 <b>separate activity of looking up newspaper</b></p> <p>2 <b>articles when I told you that. And I haven't</b></p> <p>3 <b>sat down with Mr. Berger and asked him about</b></p> <p>4 <b>each and every newspaper he has tried to run</b></p> <p>5 <b>these searches on or how he has done it.</b></p> <p>6 Q. Is there a chapter in your book where</p> <p>7 I could go to find a summary of the research</p> <p>8 that you have done with regard to newspapers</p> <p>9 and media?</p> <p>10 <b>A. Just a very few -- just a mention of</b></p> <p>11 <b>the newspaper articles, that's all, as it</b></p> <p>12 <b>mentions at the very end of chapter 10.</b></p> <p>13 Q. There is no section of your book with</p> <p>14 regard to the knowledge of newspapers in the</p> <p>15 media with regard to asbestos; is that right?</p> <p>16 <b>A. Well, I will give you the page</b></p> <p>17 <b>numbers.</b></p> <p>18 MR. SATTERLEY: 722, he just told you,</p> <p>19 the end of chapter 10.</p> <p>20 THE WITNESS: Right, 722 through 724</p> <p>21 briefly summarizes the documentation in</p> <p>22 newspapers. And it covers related type of</p> <p>23 things like -- well, magazines and so on, other</p> <p>24 kinds of reports published for the general</p> <p>25 public.</p>
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<p>1 <b>ago, he said: Maybe I can scan these, some of</b></p> <p>2 <b>these files of yours and make them available to</b></p> <p>3 <b>people. And I said: Sure, go ahead. And so</b></p> <p>4 <b>he started doing it. I have nothing to do with</b></p> <p>5 <b>the finances of that activity.</b></p> <p>6 Q. So this is a for-profit activity that</p> <p>7 Mr. Donnay is engaged in?</p> <p>8 <b>A. Ask him about that. I suppose he</b></p> <p>9 <b>makes some money at it.</b></p> <p>10 Q. You don't make any money off of</p> <p>11 selling your files?</p> <p>12 <b>A. No. I consider it a public service</b></p> <p>13 <b>that he does that.</b></p> <p>14 Q. Chapter 6 of your book is the chapter</p> <p>15 on alternatives to asbestos litigation; is that</p> <p>16 right?</p> <p>17 <b>A. Alternatives to asbestos --</b></p> <p>18 Q. -- insulation.</p> <p>19 <b>A. Insulation, right.</b></p> <p>20 Q. And that's the chapter that Mr. Berger</p> <p>21 wrote?</p> <p>22 <b>A. That's right.</b></p> <p>23 Q. And you have no idea the methods</p> <p>24 Mr. Berger employed; is that right?</p> <p>25 <b>A. No, I was answering about the very</b></p>	<p>1 BY MR. LEE:</p> <p>2 Q. And I guess we're probably talking</p> <p>3 past each other. All I am asking, Doctor, is</p> <p>4 is there not a section in your book -- there is</p> <p>5 a section in your book about knowledge among</p> <p>6 asbestos textile manufacturers, among brake</p> <p>7 manufacturers, among insulating manufacturers,</p> <p>8 among the insurance industry, among the auto</p> <p>9 industry. There is not a section like that on</p> <p>10 newspaper and media, is there?</p> <p>11 <b>A. There is nothing but the section I</b></p> <p>12 <b>pointed you to. I don't know what you are</b></p> <p>13 <b>asking me for.</b></p> <p>14 Q. And as I looked at that section, it</p> <p>15 seems to me that the newspapers, they are</p> <p>16 largely --</p> <p>17 MR. SATTERLEY: Object to the form of</p> <p>18 the question.</p> <p>19 BY MR. LEE:</p> <p>20 Q. -- deal with articles from 1964 on;</p> <p>21 is that right?</p> <p>22 <b>A. The ones in the book do. I found a</b></p> <p>23 <b>number of others as I told you that predate</b></p> <p>24 <b>that. And some of the ones in the book</b></p> <p>25 <b>mentioned predate 1964 too, if you look at the</b></p>

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<p>1 <b>page above the actual listing of the articles</b></p> <p>2 <b>at the bottom of page 723, you will see there</b></p> <p>3 <b>was stuff from the 1930s.</b></p> <p>4 Q. It is true, isn't it, that you have</p> <p>5 included acknowledgment pages in every edition</p> <p>6 of your book?</p> <p>7 A. <b>Yes.</b></p> <p>8 Q. And you have listed a number of names</p> <p>9 in those acknowledgment pages; is that right?</p> <p>10 A. <b>Yes.</b></p> <p>11 Q. And you have listed Mr. Metcalf?</p> <p>12 A. <b>Yes.</b></p> <p>13 Q. Is he an asbestos plaintiff's</p> <p>14 attorney?</p> <p>15 A. <b>Yes.</b></p> <p>16 Q. What about Paul Gillenwater?</p> <p>17 A. <b>Yes.</b></p> <p>18 Q. He is an asbestos plaintiff's</p> <p>19 attorney?</p> <p>20 A. <b>Yes.</b></p> <p>21 MR. SATTERLEY: Deceased.</p> <p>22 THE WITNESS: Oh, really?</p> <p>23 MR. SATTERLEY: Yeah, PT.</p> <p>24 BY MR. LEE:</p> <p>25 Q. Russell Budd?</p>	<p>1 <b>material and in a few cases to review the</b></p> <p>2 <b>completeness of corporate knowledge presented."</b></p> <p>3 Q. I would like to talk to you a little</p> <p>4 bit, Doctor, about the testimony you give</p> <p>5 sometimes in conspiracy cases, okay?</p> <p>6 A. <b>It is your hours.</b></p> <p>7 Q. All right. You have testified in the</p> <p>8 past about companies that were suppressing or</p> <p>9 distorting information about asbestos hazards;</p> <p>10 is that right?</p> <p>11 A. <b>Yes.</b></p> <p>12 Q. You have testified that these</p> <p>13 companies engaged in concerted actions to</p> <p>14 suppress or distort knowledge about the hazards</p> <p>15 of asbestos; is that right?</p> <p>16 A. <b>Some companies, yes.</b></p> <p>17 Q. What do you mean by "concerted</p> <p>18 action"?</p> <p>19 A. <b>Well, there are a number of ways that</b></p> <p>20 <b>that could take place. It could be working</b></p> <p>21 <b>with your product supplier to inform the buying</b></p> <p>22 <b>public that your product is nontoxic. It could</b></p> <p>23 <b>be in holding meetings to consider draft</b></p> <p>24 <b>publications about to be submitted for</b></p> <p>25 <b>publication in the medical literature for the</b></p>
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<p>1 A. <b>He is a plaintiff's attorney. There</b></p> <p>2 <b>are plaintiff and defense lawyers that are</b></p> <p>3 <b>listed in the acknowledgments page.</b></p> <p>4 Q. What about Joe Rice?</p> <p>5 A. <b>You are reading the plaintiff's</b></p> <p>6 <b>lawyers first. Yes, Joe Rice is also a</b></p> <p>7 <b>plaintiff or was also a plaintiff's lawyer in</b></p> <p>8 <b>asbestos litigation.</b></p> <p>9 Q. And Fred Baron?</p> <p>10 A. <b>Same thing.</b></p> <p>11 Q. You acknowledge the helpful</p> <p>12 existence -- helpful assistance of these people</p> <p>13 in the preparation of your book; is that right?</p> <p>14 A. <b>Well, I acknowledge that they provided</b></p> <p>15 <b>me copies of corporate documents I couldn't</b></p> <p>16 <b>have found any place in the medical library.</b></p> <p>17 Q. In fact, doctor, what you acknowledge</p> <p>18 them for is reviewing the completeness of the</p> <p>19 corporate knowledge presented; is that right?</p> <p>20 A. <b>Something like that. I mean, whatever</b></p> <p>21 <b>the acknowledgments page says, it says. We can</b></p> <p>22 <b>sit here and read it if you want to make an</b></p> <p>23 <b>absolutely perfect record. It has been done a</b></p> <p>24 <b>hundred times before, but why not.</b></p> <p>25 <b>"To assist in the compilation of</b></p>	<p>1 <b>purpose of sanitizing those publications and</b></p> <p>2 <b>removing all references to cancer and tumors.</b></p> <p>3 <b>It can be keeping the stuff out of the</b></p> <p>4 <b>trade magazines like Asbestos Magazine, about</b></p> <p>5 <b>how dangerous asbestos is. Those are the sorts</b></p> <p>6 <b>of things that get presented. And I'm sure you</b></p> <p>7 <b>have access to the transcripts of many cases in</b></p> <p>8 <b>which conspiracy was alleged in Illinois</b></p> <p>9 <b>trials. We seem to have one every month or two</b></p> <p>10 <b>around Bloomington. And I'm sure you have seen</b></p> <p>11 <b>the transcripts of those, if you are doing your</b></p> <p>12 <b>job. Let's take a quick break.</b></p> <p>13 MR. SATTERLEY: Let's take five</p> <p>14 minutes.</p> <p>15 (A recess was taken at 10:59 a.m.,</p> <p>16 after which the deposition resumed at</p> <p>17 11:04 a.m.)</p> <p>18 BY MR. LEE:</p> <p>19 Q. Doctor, again, I have never had the</p> <p>20 chance to talk to you, so I need to ask. I</p> <p>21 have seen sometimes when you have testified</p> <p>22 about the concerted action being concerted</p> <p>23 action by the asbestos industry. Do you recall</p> <p>24 that?</p> <p>25 A. <b>Well, those terms get used. I don't</b></p>

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<p>1 <b>recall anything in particular.</b></p> <p>2 Q. All right. What do you mean when you</p> <p>3 say the asbestos industry? Who is included in</p> <p>4 that?</p> <p>5 A. I include companies that used asbestos</p> <p>6 in the manufacture of industrial products or</p> <p>7 companies that mined asbestos, those two</p> <p>8 companies.</p> <p>9 Q. In your mind, Doctor, does the</p> <p>10 concerted action that you testified about stem</p> <p>11 beyond the asbestos industry?</p> <p>12 A. Again, I mean, these are general</p> <p>13 phrases. And one concept that was introduced</p> <p>14 by a plaintiff's lawyer back in 1986 was</p> <p>15 conspiracy of silence. And in using and</p> <p>16 adopting this term myself, I applied it to</p> <p>17 companies that didn't warn people about the</p> <p>18 hazards of asbestos in their own products or in</p> <p>19 the products that they were using.</p> <p>20 I mean, there were companies like the</p> <p>21 oil companies that demonstrably had knowledge</p> <p>22 about the hazards of asbestos they were using</p> <p>23 in insulation going way, way back and yet they</p> <p>24 continued to use these products, many of these</p> <p>25 companies, and didn't provide warning or</p>	<p>1 <b>have used that number.</b></p> <p>2 Q. And you used it in a paper that you</p> <p>3 published in 2006; is that right?</p> <p>4 A. Maybe. You seem to be more familiar</p> <p>5 with my use of the term than I am off the top</p> <p>6 of my head.</p> <p>7 Q. Would you agree that by 1960, by the</p> <p>8 1960s, there were hundreds of companies making</p> <p>9 these thousands of products?</p> <p>10 A. Yes, I think there probably were</p> <p>11 hundreds of companies making different products</p> <p>12 with asbestos.</p> <p>13 Q. And do you believe that by 1960 there</p> <p>14 was publicly available to all of these hundreds</p> <p>15 of companies information regarding the hazards</p> <p>16 of asbestos; is that right?</p> <p>17 A. Yes.</p> <p>18 Q. And you believe that most if not all</p> <p>19 of these hundreds of companies making these</p> <p>20 thousands of products knew prior to 1960 that</p> <p>21 asbestos was hazardous?</p> <p>22 A. I don't know about the -- most of</p> <p>23 these companies, I don't know anything about.</p> <p>24 And there are a smaller number of companies</p> <p>25 that were the major companies, were the largest</p>
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<p>1 <b>protection to the workers that were exposed to</b></p> <p>2 <b>the dust, so I include them in the conspiracy</b></p> <p>3 <b>of silence as I used that expression.</b></p> <p>4 Q. There were more than 3,000 different</p> <p>5 products made in the U.S. that contained</p> <p>6 asbestos; is that right?</p> <p>7 A. Well, people have thrown numbers</p> <p>8 around and that's the number that's most widely</p> <p>9 quoted, yes.</p> <p>10 Q. Well, you have thrown that number</p> <p>11 around, haven't you, Doctor?</p> <p>12 A. Well, yes, but, like I say, I couldn't</p> <p>13 tell you what the 3,000 products were. I</p> <p>14 couldn't tell you how the person who comes up</p> <p>15 with the number like that distinguishes between</p> <p>16 what is a new product and what is just a</p> <p>17 different size and shape of an old product.</p> <p>18 I mean, just how do you come up with a</p> <p>19 number like that is something that I would</p> <p>20 consider probably quite challenging. Suffice</p> <p>21 it to say, asbestos was used in a lot of</p> <p>22 products.</p> <p>23 Q. Well, you have used the 3,000 number</p> <p>24 in your book, have you not?</p> <p>25 A. I have referenced the fact that people</p>	<p>1 <b>companies, and those are the companies that are</b></p> <p>2 <b>the subject of litigation to date and those are</b></p> <p>3 <b>the companies about which something is now</b></p> <p>4 <b>known about what they knew back in the old</b></p> <p>5 <b>days.</b></p> <p>6 <b>But there must have been a lot of</b></p> <p>7 <b>smaller companies that have just come and gone</b></p> <p>8 <b>and about which no information remains. And</b></p> <p>9 <b>these are probably companies that have left</b></p> <p>10 <b>behind liabilities that remain uncollected,</b></p> <p>11 <b>simply because their identities are no longer</b></p> <p>12 <b>traceable and I don't know about them.</b></p> <p>13 Q. Doctor, in addition to the hundreds of</p> <p>14 companies that were making these</p> <p>15 asbestos-containing products in the '30s, '40s,</p> <p>16 '50s, and '60s, would you agree that there are</p> <p>17 thousands of companies in America using</p> <p>18 products that contained asbestos?</p> <p>19 A. Sure.</p> <p>20 Q. Would you agree that many of these</p> <p>21 companies had industrial hygienists and doctors</p> <p>22 on staff?</p> <p>23 A. What do you mean by "many"? When you</p> <p>24 are talking hundreds and thousands, that's a</p> <p>25 lot of companies. There weren't that many of</p>

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<p>1 <b>them that had industrial hygienists and company</b></p> <p>2 <b>doctors. The big companies did. The little</b></p> <p>3 <b>companies didn't. So the more numerous</b></p> <p>4 <b>companies didn't have this kind of help on</b></p> <p>5 <b>staff but the companies that accounted for most</b></p> <p>6 <b>of the production, industrial production in the</b></p> <p>7 <b>United States did.</b></p> <p>8 Q. Would you agree that these companies</p> <p>9 also knew about the hazards of asbestos?</p> <p>10 <b>A. Which companies?</b></p> <p>11 MR. SATTERLEY: These? Object to the</p> <p>12 vagueness of the questions.</p> <p>13 BY MR. LEE:</p> <p>14 Q. These thousands of companies that were</p> <p>15 using asbestos-containing products.</p> <p>16 <b>A. I just told you what I don't know and</b></p> <p>17 <b>I know. I know about the major companies that</b></p> <p>18 <b>were producing most of these materials because</b></p> <p>19 <b>they had been the subject of discovery, but the</b></p> <p>20 <b>more numerous small companies that came and</b></p> <p>21 <b>went, I know nothing about, or a little about.</b></p> <p>22 I occasionally see the reference to</p> <p>23 some company or another in old documentation</p> <p>24 and, you know, might be advertising material or</p> <p>25 something elsewhere some companies named. And,</p>	<p>1 had anything to warn people that you referred</p> <p>2 to as blue-collar workers?</p> <p>3 <b>A. Nothing comes to mind. I can't think</b></p> <p>4 <b>of anything that any company initiated to warn</b></p> <p>5 <b>its own workers about the hazards of asbestos,</b></p> <p>6 <b>unless they were subject to some kind of</b></p> <p>7 <b>pressure to do so prior to 1960. Nothing comes</b></p> <p>8 <b>to mind.</b></p> <p>9 Q. I think you have testified in the past</p> <p>10 that the Department of Labor said in 1932 that</p> <p>11 asbestos could be hazardous; is that right?</p> <p>12 <b>A. Well, the Department of Labor had</b></p> <p>13 <b>publications that indicated that going back to</b></p> <p>14 <b>1929 or 1930.</b></p> <p>15 Q. In 1932 did the U.S. government stop</p> <p>16 using asbestos?</p> <p>17 <b>A. No.</b></p> <p>18 Q. Did the U.S. government in 1932 stop</p> <p>19 using asbestos-containing products they</p> <p>20 purchased from others?</p> <p>21 <b>A. No.</b></p> <p>22 Q. So far as you know, the U.S.</p> <p>23 government did not in 1932 warn its employees</p> <p>24 that asbestos could be hazardous; is that</p> <p>25 right?</p>
Page 50	Page 52
<p>1 <b>you know, I will look at them and I will say:</b></p> <p>2 <b>Oh, that must have been one of those little</b></p> <p>3 <b>asbestos manufacturing companies that came and</b></p> <p>4 <b>went long ago, about which I know nothing.</b></p> <p>5 Q. You believe that the hazard of</p> <p>6 asbestos, the hazards of asbestos were widely</p> <p>7 known in industrial circles in the 1930s; is</p> <p>8 that right?</p> <p>9 <b>A. Yes. And I am talking about big</b></p> <p>10 <b>business. I mean, I am not talking about the</b></p> <p>11 <b>teeny weeny companies. I am talking about the</b></p> <p>12 <b>companies that accounted for the most -- the</b></p> <p>13 <b>majority of industrial production in this</b></p> <p>14 <b>country.</b></p> <p>15 Q. You would agree, would you not, that</p> <p>16 none of the thousands of companies that made or</p> <p>17 used the thousands of asbestos-containing</p> <p>18 products in the United States prior to 1960 put</p> <p>19 any warning on any of those products that they</p> <p>20 might be hazardous prior to 1960?</p> <p>21 <b>A. Right, there were no warning labels on</b></p> <p>22 <b>the products prior to 1960.</b></p> <p>23 Q. Would you agree that prior to 1960</p> <p>24 none of the thousands of companies that were</p> <p>25 making or using asbestos-containing products</p>	<p>1 <b>A. As far as I know, they didn't, but, I</b></p> <p>2 <b>mean, they might have. I just don't have any</b></p> <p>3 <b>way of knowing what they did.</b></p> <p>4 Q. And in 1938 --</p> <p>5 <b>A. I mean, there was at least one</b></p> <p>6 <b>employee of the U.S. government who was</b></p> <p>7 <b>compensated for asbestosis who worked at a</b></p> <p>8 <b>government hospital as a maintenance worker and</b></p> <p>9 <b>was the subject of a disability claim, so it</b></p> <p>10 <b>must have been the government told that person</b></p> <p>11 <b>something in order for him to recognize his</b></p> <p>12 <b>occupational disease and receive compensation</b></p> <p>13 <b>for it in 1932.</b></p> <p>14 Q. In 1932 it was the Federal Government,</p> <p>15 was it not, that recommended the 5 million</p> <p>16 particles per cubic foot standard?</p> <p>17 <b>A. No.</b></p> <p>18 Q. No?</p> <p>19 <b>A. No.</b></p> <p>20 Q. Where was that study published?</p> <p>21 <b>A. It was published in 1938, and it was</b></p> <p>22 <b>--</b></p> <p>23 Q. I'm sorry, 1938.</p> <p>24 <b>A. And it was recommended as a tentative</b></p> <p>25 <b>guideline by the authors of the study who were</b></p>

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<p>1 <b>aware of the limitations and weaknesses of</b>  2 <b>their study and made it clear in their report.</b>  3 Q. And that's the Driessen study we're  4 talking about?  5 <b>A. Yes.</b>  6 Q. In 1938 when the Federal Government  7 published the Driessen study, did it send out a  8 warning to its employees to be careful while  9 handling asbestos-containing products?  10 <b>A. No.</b>  11 Q. Did the Federal Government stop using  12 asbestos or asbestos-containing products in  13 1938?  14 <b>A. No.</b>  15 Q. You assert that in 1955 the Federal  16 Government made a link between asbestos and  17 cancer; is that right?  18 <b>A. Well, there were publications from the</b>  19 <b>National Cancer Institute earlier than that,</b>  20 <b>but, you know, Dr. Heuper was continuing to</b>  21 <b>write about this, and there was at least one</b>  22 <b>official publication of the National Cancer</b>  23 <b>Institute in 1955 that talked about asbestos as</b>  24 <b>a cause of occupational cancer.</b>  25 Q. And in 1955 when that publication came</p>	<p>1 <b>and so the U.S. government publications on this</b>  2 <b>go back to 1918.</b>  3 Q. Okay. In 1918 that was a report by  4 the Bureau of Labor Standards; is that right?  5 <b>A. It was statistics, yes.</b>  6 Q. Labor Statistics, okay. That was a  7 published report?  8 <b>A. It was.</b>  9 Q. It wasn't any secret, was it?  10 <b>A. No.</b>  11 Q. And, in fact, I think you have  12 testified in the past that the 1918 report by  13 the Bureau of Labor Statistics had an excellent  14 section on asbestosis; is that right?  15 <b>A. Yes. I mean, it was short, but it was</b>  16 <b>to the point.</b>  17 Q. So by 1918 the government was aware  18 that insurance companies were not writing  19 insurance or setting very high premiums for  20 people who were working with raw asbestos?  21 <b>A. I guess you could put it that way.</b>  22 <b>The report was written by an insurance company</b>  23 <b>man and published as a government report.</b>  24 Q. Doctor, when did the U.S. government  25 stop using asbestos?</p>
Page 54	Page 56
<p>1 out, did the government stop using asbestos or  2 asbestos-containing products?  3 <b>A. No.</b>  4 Q. And so far as you know, the Federal  5 Government in 1955 did nothing to warn its  6 blue-collar workers about the possible hazards  7 of asbestos; is that right?  8 <b>A. That's right. I mean, there may have</b>  9 <b>been -- I guess I should say the government was</b>  10 <b>apparently doing something in some Navy yards,</b>  11 <b>but it was, I think, a pretty sporadic thing.</b>  12 Q. I think you have testified in the past  13 that the U.S. government knew very early that  14 asbestos could be hazardous to health; is that  15 right?  16 <b>A. Well, they knew in 1930 when the Navy</b>  17 <b>-- when the Bureau of Labor Statistics was</b>  18 <b>publishing information on asbestosis, then at</b>  19 <b>least somebody in the government knew. Even</b>  20 <b>earlier than that the U.S. government published</b>  21 <b>a report in 1918 that was written by an</b>  22 <b>insurance company actuary that said that it was</b>  23 <b>generally the practice of the life insurance</b>  24 <b>companies not to sell life insurance to</b>  25 <b>asbestos workers because they were bad risks,</b></p>	<p>1 <b>A. I don't know.</b>  2 Q. Do you know when the U.S. government  3 stopped purchasing asbestos-containing  4 products?  5 <b>A. No, I don't know if the government has</b>  6 <b>done that or, if so, when.</b>  7 Q. Doctor, in 1935 the Commonwealth of  8 Pennsylvania did a study of people working with  9 raw asbestos; is that right?  10 <b>A. Well, they were working in factories</b>  11 <b>making different products, including asbestos</b>  12 <b>as one of the raw materials in the product.</b>  13 Q. And that study showed that people  14 working with raw asbestos could develop  15 asbestosis; is that right?  16 <b>A. It showed that people working in those</b>  17 <b>factories making the products they made in</b>  18 <b>those factories, having the exposures to</b>  19 <b>asbestos that they obtained in the various</b>  20 <b>processes in those factories, 25 percent of</b>  21 <b>them had asbestosis. They didn't just shovel</b>  22 <b>raw asbestos around.</b>  23 Q. In 1935 you would agree that the  24 government of the Commonwealth of Pennsylvania  25 knew that asbestos could be hazardous, would</p>

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<p>1 you not?</p> <p>2 <b>A. Right, they did.</b></p> <p>3 Q. Pennsylvania didn't stop using</p> <p>4 asbestos-containing products in 1935, did it?</p> <p>5 <b>A. No.</b></p> <p>6 Q. Did Pennsylvania ban the use of</p> <p>7 asbestos in 1935?</p> <p>8 <b>A. No.</b></p> <p>9 Q. And you have never seen any evidence</p> <p>10 that Pennsylvania did anything in 1935 to warn</p> <p>11 workers that asbestos could be hazardous to</p> <p>12 health, have you?</p> <p>13 <b>A. Well, I mean, they published this</b></p> <p>14 <b>report. All these reports are using as the</b></p> <p>15 <b>keystone for asking this question, are</b></p> <p>16 <b>published and publicly available. They are not</b></p> <p>17 <b>the kinds of things that would have been read</b></p> <p>18 <b>or provided to ordinary working people. And</b></p> <p>19 <b>what the government of Pennsylvania did to warn</b></p> <p>20 <b>the maintenance workers in Pennsylvania</b></p> <p>21 <b>government buildings about the hazards of</b></p> <p>22 <b>asbestos or anything like that, I don't know.</b></p> <p>23 <b>I don't have any evidence that the government</b></p> <p>24 <b>of Pennsylvania initiated any kind of program</b></p> <p>25 <b>of that kind.</b></p>	<p>1 <b>standards by the state of Pennsylvania in the</b></p> <p>2 <b>1930s, '40s, '50s or '60s.</b></p> <p>3 Q. As far as you know, the Commonwealth</p> <p>4 of Pennsylvania did not warn workers of the</p> <p>5 hazards of asbestos in 1942; is that right?</p> <p>6 <b>A. Well, I don't know what contact the</b></p> <p>7 <b>state had with the workers in the plants when</b></p> <p>8 <b>they went through the General Electric plant on</b></p> <p>9 <b>whose report -- on which they reported in 1942.</b></p> <p>10 <b>I just don't have any way of knowing that.</b></p> <p>11 <b>But there is no record of the state of</b></p> <p>12 <b>Pennsylvania having discussed the hazards of</b></p> <p>13 <b>asbestos with the workers at the GE plant.</b></p> <p>14 <b>That's not noted in the report.</b></p> <p>15 Q. Going all the way back to 1935, New</p> <p>16 York required worker's compensation for dust</p> <p>17 diseases; is that right?</p> <p>18 <b>A. Right. Under the worker's</b></p> <p>19 <b>compensation laws, they required compensation</b></p> <p>20 <b>for diseases like asbestosis.</b></p> <p>21 Q. So asbestosis was included in the</p> <p>22 diseases that could be compensated for under</p> <p>23 the New York worker's compensation law in 1935;</p> <p>24 is that right?</p> <p>25 <b>A. Yes.</b></p>
Page 58	Page 60
<p>1 Q. Have you done any investigation to see</p> <p>2 if they did?</p> <p>3 <b>A. No.</b></p> <p>4 Q. Why not?</p> <p>5 <b>A. Because I don't know how you would</b></p> <p>6 <b>even begin to find anything like that out 75</b></p> <p>7 <b>years later.</b></p> <p>8 Q. The Commonwealth of Pennsylvania</p> <p>9 published more reports on the hazards of</p> <p>10 asbestos in the '30s and '40s; is that right?</p> <p>11 <b>A. They did.</b></p> <p>12 Q. The Commonwealth of Pennsylvania even</p> <p>13 had state inspection of industrial facilities</p> <p>14 in the 1930s and '40s; is that right?</p> <p>15 <b>A. I am not sure what they had. You</b></p> <p>16 <b>might characterize a state inspection. They</b></p> <p>17 <b>published one report about a General Electric</b></p> <p>18 <b>plant that they said was a good example of a</b></p> <p>19 <b>dust-controlled asbestos processing operation</b></p> <p>20 <b>in 1942 but there were very few such reports.</b></p> <p>21 <b>And the extent of any inspection the state of</b></p> <p>22 <b>Pennsylvania did, I don't know.</b></p> <p>23 <b>I don't get the impression that there</b></p> <p>24 <b>was ever anybody cited, for example, for</b></p> <p>25 <b>violating any kind of government regulations or</b></p>	<p>1 Q. Didn't New York ban the use of</p> <p>2 asbestos in 1935?</p> <p>3 <b>A. No.</b></p> <p>4 Q. Did the state of New York stop buying</p> <p>5 and using asbestos-containing products in 1935?</p> <p>6 <b>A. No.</b></p> <p>7 Q. You aren't aware of any warning New</p> <p>8 York gave to blue-collar workers in 1935 about</p> <p>9 the hazards of working with asbestos, are you?</p> <p>10 <b>A. I don't know what the state of New</b></p> <p>11 <b>York told its own workers about the hazards of</b></p> <p>12 <b>working with asbestos in 1935 or for the 30</b></p> <p>13 <b>years after that.</b></p> <p>14 Q. In fact, you aren't aware of any</p> <p>15 warning that New York ever gave to blue-collar</p> <p>16 workers regarding the potential hazards of</p> <p>17 asbestos, are you?</p> <p>18 <b>A. No. I mean, I'm aware of one worker</b></p> <p>19 <b>that was filing some kind of legal case against</b></p> <p>20 <b>the state of New York in 1943 alleging that he</b></p> <p>21 <b>had asbestosis from doing brake repairs for 16</b></p> <p>22 <b>years. And I don't know if the state of New</b></p> <p>23 <b>York reacted to that by starting to warn and</b></p> <p>24 <b>protect workers doing that kind of work or not.</b></p> <p>25 Q. In 1934 asbestosis became a</p>

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<p>1 compensable disease in North Carolina; is that 2 right?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. And that was actually through a 5 Supreme Court decision; is that right?</p> <p>6 <b>A. A state Supreme Court decision, yes.</b></p> <p>7 Q. And that was a published state Supreme 8 Court decision?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. North Carolina didn't stop using 11 asbestos-containing products in 1934, did it?</p> <p>12 <b>A. No.</b></p> <p>13 Q. And North Carolina didn't warn its 14 workers that they were at risk for asbestos or 15 asbestos-containing products in 1934, did they?</p> <p>16 <b>A. I don't know what the state of North 17 Carolina told its own employees about the 18 dangers of working with asbestos in 1934 or any 19 time since.</b></p> <p>20 Q. You would agree that no state in the 21 union has ever banned asbestos; is that right?</p> <p>22 <b>A. Well, that's right.</b></p> <p>23 Q. And to your knowledge no state has 24 ever stopped using or buying 25 asbestos-containing products; is that right?</p>	<p>1 asbestos could be hazardous to health?</p> <p>2 <b>A. Sure. The state enacted legislation 3 and occupational disease law in 1936 that 4 specifically dealt with the worker's 5 compensation for asbestosis and silicosis.</b></p> <p>6 Q. The state of Illinois did not ban 7 asbestos in the '30s, '40s, '50s or '60s, did 8 they?</p> <p>9 <b>A. No.</b></p> <p>10 Q. And as far as you knew, even up until 11 today, even though the state of Illinois has 12 known about the hazards of asbestos, it has not 13 warned its blue-collar workers of those 14 hazards; is that right?</p> <p>15 <b>A. I don't know what the state of 16 Illinois has told its own employees about the 17 hazards of asbestos, so there are probably 18 plenty of states that have people that work on 19 state vehicles doing such things as brake and 20 clutch work, who are as a matter of course 21 warned and trained about the hazards and the 22 means to minimize them.</b></p> <p>23 <b>I just don't know about these things. 24 I am not saying they don't go on. I just don't 25 know about how each and every state in the</b></p>
Page 62	Page 64
<p>1 <b>A. Well, the State of Maryland, we did 2 something, banned the use of asbestos in 3 industrial clothing in 1984 or at least there 4 was legislation being proposed for that. I'm 5 not sure if it passed, come to think of it.</b></p> <p>6 <b>But generally these kinds of things 7 were done at the federal level after 1970 or 8 not at all. They weren't the kinds of things 9 that were done by the states. The states did 10 ban sprayed asbestos fireproofing, that's 11 another example, but that was right at the time 12 that the Environmental Protection Agency was 13 being created and finding its footing.</b></p> <p>14 <b>The EPA was still new on the scene, 15 and at that time a number of cities and states 16 did ban sprayed asbestos fireproofing in the 17 construction of new buildings.</b></p> <p>18 Q. Doctor, to your knowledge no state has 19 completely stopped using or buying 20 asbestos-containing products; is that right?</p> <p>21 <b>A. I suppose so. I mean, I haven't made 22 an investigation of what all the states in the 23 country are doing as far as that.</b></p> <p>24 Q. Am I right that the state of Illinois, 25 according to you, knew back in the 1930s that</p>	<p>1 <b>United States manages its personnel issues with 2 respect to asbestos exposure among its 3 employees.</b></p> <p>4 Q. Dr. Castleman, would you lump the U.S. 5 government in the asbestos industry?</p> <p>6 <b>A. No, the U.S. government never made 7 money selling asbestos or asbestos products.</b></p> <p>8 Q. So the only people that you would lump 9 into the asbestos industry are people who make 10 money off of asbestos?</p> <p>11 <b>A. Well, I mean, the U.S. government's 12 use of asbestos was as the consumer, not as a 13 producer or distributor or supplier. To the 14 extent that the U.S. government ever warehoused 15 these products, it was simply as a matter of 16 maintaining stocks of what the government 17 regarded as strategic minerals and materials 18 that weren't mined in sufficient quantities 19 within the United States.</b></p> <p>20 <b>And it is very different from the 21 commercial activities of the companies that 22 manufactured asbestos products.</b></p> <p>23 Q. Has the U.S. government ever mined 24 asbestos itself?</p> <p>25 <b>A. I don't think so.</b></p>

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<p>1 Q. Has the U.S. government ever 2 contemplated mining asbestos itself? 3 <b>A. I don't know. I mean, generally</b> 4 <b>that's done by people who, you know, are in the</b> 5 <b>business sector, not by the government.</b> 6 Q. You have talked in the past 7 disparagingly of the Industrial Hygiene 8 Foundation, have you not? 9 MR. SATTERLEY: Object to the form of 10 the question but go ahead. 11 THE WITNESS: I have criticized the 12 Industrial Hygiene Foundation, if that's what 13 you mean. 14 BY MR. LEE: 15 Q. You have insinuated in the past that 16 it was part of the conspiracy of silence as you 17 put it; is that right? 18 <b>A. Yes.</b> 19 Q. It is true, is it not, that the annual 20 meetings of the IHF were covered by trade 21 magazines? 22 <b>A. Well, they were sometimes covered by</b> 23 <b>major newspapers. I don't know about trade</b> 24 <b>magazines, but they were -- I think they were</b> 25 <b>maybe mentioned in trade magazines as well.</b></p>	<p>1 <b>specific trade magazines that covered their</b> 2 <b>annual meetings, but I see that I never had an</b> 3 <b>annotation of specific magazines, it was just</b> 4 <b>the general class industry trade magazines</b> 5 <b>mentioned in the IHF's own report that I cite</b> 6 <b>at the end of that paragraph as my source.</b> 7 Q. Okay. Then would you agree with me 8 that the annual meetings of the IHF were 9 covered by trade magazines? 10 <b>A. Yes, they probably were. I just don't</b> 11 <b>off the top of my head know what trade</b> 12 <b>magazines to refer you to.</b> 13 Q. Well, you would agree that the annual 14 meetings of the IHF were covered by prestigious 15 newspapers like the Wall Street Journal and the 16 New York Times? 17 <b>A. Yes.</b> 18 Q. And also by the Associated Press and 19 the United Press International? 20 <b>A. Yeah. I mean, I have no reason to</b> 21 <b>doubt that what was reported in the source that</b> 22 <b>I cite, it was correctly reported.</b> 23 Q. You read The New York Times, do you 24 not? 25 <b>A. Sometimes I do. I don't read it</b></p>
Page 66	Page 68
<p>1 Q. I think on page 682 of your book, 2 Doctor, maybe I am reading it wrong -- 3 MR. SATTERLEY: Fifth edition? 4 MR. LEE: Sure. 5 MR. SATTERLEY: 682? 6 MR. LEE: Yes. Do you see the 7 paragraph that starts with "there were regular 8 published IHF medical, engineering and legal 9 conferences." 10 THE WITNESS: Yes. 11 BY MR. LEE: 12 Q. About halfway down the line starting 13 with chapter and then close parenthesis. Do 14 you see that? 15 <b>A. I do see that the IHF annual meetings</b> 16 <b>were not only covered by industry trade</b> 17 <b>magazines but also prestigious newspapers.</b> 18 Q. Does that refresh your recollection as 19 to whether the IHF annual meetings were covered 20 by trade magazines? 21 <b>A. This is probably something I read in</b> 22 <b>the IHF describing itself. And I reference the</b> 23 <b>IHF as a source of this. The reason I was</b> 24 <b>being cautious about answering your question is</b> 25 <b>I couldn't off the top of my head recall</b></p>	<p>1 <b>regularly, but I read it usually when I am</b> 2 <b>traveling with long airplane rides.</b> 3 Q. Do you know for how long The New York 4 Times has had a science desk? 5 <b>A. No.</b> 6 Q. Do you know for how long The New York 7 Times has been publishing articles relating to 8 asbestos? 9 <b>A. Well, I mean, the industrial uses of</b> 10 <b>asbestos and the asbestos business has probably</b> 11 <b>been covered by the Times back to the '30s or</b> 12 <b>the '20s. There are probably lots of articles</b> 13 <b>about Johns-Manville and the Morgan interests,</b> 14 <b>Morgan banking interests taking over them, but</b> 15 <b>I don't know how long The New York Times -- I</b> 16 <b>don't know that The New York Times covered</b> 17 <b>anything about the health hazards of asbestos</b> 18 <b>before 1948. That's the earliest I can recall.</b> 19 <b>There might be something earlier than that. I</b> 20 <b>don't remember anything.</b> 21 Q. Do you know for how long the Wall 22 Street Journal has been publishing articles 23 relating to asbestos? 24 <b>A. Well, again, the asbestos business may</b> 25 <b>be a long time. The earliest article in the</b></p>

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<p>1 <b>Wall Street Journal in which the hazards of</b>  2 <b>asbestos was floated was, I think, 1959.</b>  3 Q. What about the Associated Press?  4 <b>A. I don't know about that.</b>  5 Q. Have you done any research into that?  6 <b>A. No.</b>  7 Q. What about Mr. Berger?  8 <b>A. Not as far as I know has he done any</b>  9 <b>research as to what might be available from the</b>  10 <b>AP in terms of their historic reports on</b>  11 <b>asbestos.</b>  12 Q. Would knowing what newspapers and  13 press were covering with regard to asbestos be  14 relevant to the corporate or to the knowledge  15 of asbestos hazards?  16 <b>A. Sure. I mean, anything that's made</b>  17 <b>public in some sense informs some people.</b>  18 Q. Would it be relevant to your testimony  19 with regard to the conspiracy of silence?  20 <b>A. It might.</b>  21 Q. Doctor, you are familiar with the  22 International Labor Office, are you not?  23 <b>A. Yes.</b>  24 Q. That's a tri-court -- it is an  25 organization that has a tripartite arrangement</p>	<p>1 <b>A. I don't remember what you are</b>  2 <b>referring to.</b>  3 Q. There was a shipbuilding union in New  4 York?  5 <b>A. Oh, there was a letter that Phil</b>  6 <b>Drinker wrote to somebody and he talks about</b>  7 <b>this union guy who was raising concerns about</b>  8 <b>some of the work they were doing in the</b>  9 <b>shipyard, apparently having to do with</b>  10 <b>asbestos. I don't recall exactly how it was</b>  11 <b>expressed.</b>  12 <b>So it is this kind of second -- we</b>  13 <b>don't have it on the letterhead of the union or</b>  14 <b>anything like that. We have the secondhand</b>  15 <b>reference to some union guy raising some</b>  16 <b>concerns in, I think it was, 1944.</b>  17 Q. So you would agree at least by 1944  18 information about the hazards of asbestos had  19 reached at least that union?  20 <b>A. Had reached one individual in one</b>  21 <b>union somewhere in the northeast United States.</b>  22 Q. You are aware of the conferences the  23 Saranac Laboratory had hosted; is that right?  24 <b>A. Yes.</b>  25 Q. Am I correct that there were seven of</p>
Page 70	Page 72
<p>1 with representatives from labor, employment,  2 and government from each of the countries it  3 represents; is that right?  4 <b>A. Labor employers and government. You</b>  5 <b>read that wrong. Yes.</b>  6 Q. U.S. labor unions are represented by  7 the ILL?  8 <b>A. No. U.S. labor unions are represented</b>  9 <b>at the ILO.</b>  10 Q. Thank you for the clarification.  11 <b>A. The United States delegation consists</b>  12 <b>of employers, government, and unions. And so</b>  13 <b>each country that's represented in the ILO has</b>  14 <b>that kind of representation that can come.</b>  15 Q. By 1930 the ILO had discussed the  16 potential hazards of asbestos; is that right?  17 <b>A. Yes. Well, they held a major</b>  18 <b>conference in South Africa that year, and they</b>  19 <b>published a first volume of their encyclopedia</b>  20 <b>on occupational health in that year. Both of</b>  21 <b>these occasions included asbestos.</b>  22 Q. You have seen documentation that at  23 least by 1944 that even in New York they were  24 concerned about potential hazards of asbestos;  25 is that right?</p>	<p>1 those?  2 <b>A. There were seven.</b>  3 Q. You have seen the proceedings of those  4 conferences?  5 <b>A. I have seen the proceedings of the six</b>  6 <b>that were published and the fragments of the</b>  7 <b>proceedings of the seventh that survived and</b>  8 <b>were located in the four walled archives.</b>  9 Q. At the seventh conference, was that  10 1952?  11 <b>A. Yes.</b>  12 Q. The potential hazards of asbestos were  13 discussed openly, were they not?  14 <b>A. They were discussed by company lawyers</b>  15 <b>and doctors potentially at a meeting that was</b>  16 <b>never published.</b>  17 Q. And union representatives, correct?  18 <b>A. Well, there was one guy, one doctor</b>  19 <b>from the United Mine Workers who also showed</b>  20 <b>up, and I think he had brought one other person</b>  21 <b>with him from his union.</b>  22 Q. And that was Dr. Lorin Kerr?  23 <b>A. Lorin Kerr, yes.</b>  24 Q. Would you agree that Dr. Lorin Kerr  25 being present at that conference means that at</p>

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<p>1 least by 1952 the leadership of the United Mine 2 Workers knew about the hazards of asbestos? 3 <b>A. I would say that the doctor from the</b> 4 <b>United Mine Workers knew about the hazards of</b> 5 <b>asbestos, yes.</b> 6 Q. In 1952 did the United Mine Workers 7 issue a warning to its workers that working 8 with asbestos or asbestos-containing products 9 could be hazardous to health? 10 <b>A. Not as far as I'm aware.</b> 11 Q. I think we have talked today about 12 Dr. Heuper; is that right? Am I pronouncing 13 his name correctly? 14 <b>A. I don't know if we have talked about</b> 15 <b>him today or not, but we will probably get</b> 16 <b>around to it, H-e-u-p-e-r, Dr. Heuper.</b> 17 Q. I think we talked about him with 18 regard to the 1955 publication by the United 19 States; is that right? 20 <b>A. Oh, yes, you are right. I did mention</b> 21 <b>his name.</b> 22 Q. You would agree Dr. Heuper was active 23 in the field of dust diseases and asbestos 24 disease in the 1940s and '50s, correct? 25 <b>A. He was active in the field of</b></p>	<p>1 <b>A. It was never published.</b> 2 Q. As part of his papers? 3 <b>A. It is part of his collected papers in</b> 4 <b>the history of medicine section in the National</b> 5 <b>Library of Medicine.</b> 6 Q. The AFL-CIO is the largest labor 7 organization in the country; is that right? 8 <b>A. Yes.</b> 9 Q. All right. And you would agree that 10 by 1959, the AFL-CIO was aware of a potential 11 link between asbestosis and cancer; is that 12 right? 13 <b>A. I don't recall exactly what it was</b> 14 <b>Heuper told them, and all I have by way of</b> 15 <b>reference is my own very brief summary. What</b> 16 <b>it was was he gave them a long talk about</b> 17 <b>health hazards in industry, particularly cancer</b> 18 <b>hazards in industry, and asbestos was just one</b> 19 <b>of many subjects that he discussed with the</b> 20 <b>people who were at that meeting in 1959.</b> 21 Q. So you would agree that by 1959 22 Dr. Heuper had told the AFL-CIO about the 23 potential link between asbestosis and cancer; 24 is that right? 25 <b>A. I can't add anything to what I have</b></p>
Page 74	Page 76
<p>1 <b>occupational cancer in the '40s and '50s, and</b> 2 <b>asbestos is one of the things he wrote about.</b> 3 Q. He published a lot of articles? 4 <b>A. Yes.</b> 5 Q. He was actually -- was he the chief of 6 the National Cancer Institute at that time? 7 <b>A. No.</b> 8 Q. Was he a chief of a division of the 9 National Cancer Institute? 10 <b>A. He was the chief of the environmental</b> 11 <b>cancer section of the National Cancer Institute</b> 12 <b>and the section was, as I understand, dissolved</b> 13 <b>as soon as Heuper retired in 1964.</b> 14 Q. Well, he was the chief of that section 15 from 1948 to 1964? 16 <b>A. Right.</b> 17 Q. Dr. Heuper was actually the author of 18 the 1955 publication that you claim linked 19 asbestos and cancer; is that right? 20 <b>A. Yes.</b> 21 Q. In 1959 Dr. Heuper made a presentation 22 to the AFL-CIO, did he not? 23 <b>A. Yes.</b> 24 Q. That presentation is still part of his 25 published papers?</p>	<p>1 <b>already said. He gave a talk to some people</b> 2 <b>from the AFL-CIO in 1959 and talked about</b> 3 <b>occupational cancer hazards in general and</b> 4 <b>included in that a brief mention of asbestos,</b> 5 <b>at least as far as the paper he handed out</b> 6 <b>apparently goes.</b> 7 Q. In 1959 after the AFL-CIO had this 8 discussion with Dr. Heuper, did it announce 9 that its members would no longer work with 10 asbestos or asbestos-containing products? 11 <b>A. No.</b> 12 Q. You are familiar with the Asbestos 13 Workers Union? 14 <b>A. Yes.</b> 15 Q. And that has actually a longer name, 16 which I will probably butcher if I try. But 17 that's essentially the union that represented 18 the insulators; is that right, Doctor? 19 <b>A. Yes.</b> 20 Q. You are aware of a letter to the IHF 21 in 1955 where the Asbestos Workers Union 22 expressed concerns about the potential hazards 23 of asbestos for its workers; is that right? 24 <b>A. Yes. I mention it in my book. They</b> 25 <b>were anxious about possible health hazards and</b></p>

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1 they went to the IHF in the hope that they  
2 could get some information to help them, which  
3 they were unable to get.

4 Q. And in 1957 the minutes of the meeting  
5 of the Western States Conference of the  
6 Asbestos Workers Union show that they were  
7 investigating the causes of asbestosis on their  
8 own; is that right?

9 A. I don't think they used the word  
10 asbestosis.

11 Q. Okay.

12 A. They were concerned about lung disease  
13 in their workers and still trying to figure out  
14 what was going on as far as I can remember.

15 Q. In fact, at that time the Asbestos  
16 Workers Union is compiling facts and figures on  
17 their own about asbestosis; is that right?

18 A. In the 1950s?

19 Q. Yes.

20 A. Not as far as I know. They may have  
21 noticed that six guys in a particular local had  
22 died of lung diseases. If you call that  
23 compiling facts and figures, I mean, I think it  
24 is just the kind of compiling that goes on when  
25 people are in a group and they know about each

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1 other's severe medical problems as they come  
2 up. I don't think it was so much an effort of  
3 compiling as just knowing about Jim and Henry  
4 and John and what's happened to them.

5 Q. When did the Asbestos Workers Union  
6 first issue a warning to its workers regarding  
7 the potential hazards of asbestos?

8 A. I don't recall anything before they  
9 met with Selikoff in 1962 at one of these  
10 meetings that the -- I guess it was the  
11 business agents of this union held every five  
12 years. And Selikoff came to the 1962 meeting  
13 and talked a little about his efforts to  
14 investigate the health hazards in the trade and  
15 the studies weren't complete at that time.  
16 They were just starting.

17 But I suppose Selikoff told them  
18 something about the hazards of asbestos in  
19 1962. I don't recall what exactly the  
20 transcript would say about that.

21 Q. You don't have any evidence, do you,  
22 Doctor, that Owens-Illinois ever attempted to  
23 suppress the publication of asbestos research?

24 A. No. I mean, the only example I can  
25 think of is the Cable studies and they were

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1 apparently published without prior approval of,  
2 approval or disapproval of Owens-Illinois.

3 Q. And, in fact, going along with that  
4 answer, Doctor, you have no evidence that  
5 Owens-Illinois ever attempted to edit the  
6 results of the asbestos research, do you?

7 A. Well, I don't think that they knew  
8 that this was going to be published until it  
9 was in print, and so they didn't have occasion  
10 to exercise that option of trying to edit the  
11 research.

12 Q. Doctor, you have no evidence that  
13 Owens-Illinois ever attempted to edit the  
14 results of asbestos research, do you?

15 A. Well, the only paper that was  
16 published about asbestos and Owens-Illinois  
17 products was published by the Saranac Lab, and  
18 it appears to have been published without  
19 advance notice to Owens-Illinois, so  
20 Owens-Illinois didn't get the option to edit it  
21 or not to edit it.

22 Q. So that means that you have no  
23 evidence that Owens-Illinois ever attempted to  
24 edit the results of asbestos research; is that  
25 right?

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1 A. I have already answered your question  
2 twice. I have nothing to add to what I already  
3 said. They couldn't edit something that they  
4 weren't presented with until after it was  
5 published. They didn't have the occasion to  
6 edit it, so they didn't edit it.

7 Q. You have no evidence that  
8 Owens-Illinois ever even attempted to edit the  
9 results of asbestos research; is that right?

10 MR. SATTERLEY: Object to the form of  
11 the question, asked and answered.

12 THE WITNESS: I think you are beating  
13 this one to death. They expressed some -- they  
14 expressed surprise that they weren't given the  
15 thing to look at the thing before the thing was  
16 published. And they expressed some relief that  
17 the form of the report didn't name their  
18 product but they didn't have the option of  
19 editing or not editing it.

20 BY MR. LEE:

21 Q. And my question wasn't whether they  
22 did. My question is you have no evidence that  
23 Owens-Illinois ever even attempted to edit the  
24 results of asbestos research, do you, Doctor?

25 A. Well, I mean, I just don't see how you

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<p>1 <b>attempt to interfere with something that you</b></p> <p>2 <b>don't know is happening. Nobody could do that.</b></p> <p>3 Q. So the answer is you have no evidence</p> <p>4 that Owens-Illinois ever attempted to edit the</p> <p>5 results of asbestos research; is that right?</p> <p>6 MR. SATTERLEY: Objection, asked and</p> <p>7 answered, four times now.</p> <p>8 THE WITNESS: Well, upon reflection,</p> <p>9 there is the matter of about J.C. Wagner. And</p> <p>10 Owens-Illinois did hire Dr. Wagner as a</p> <p>11 consultant. And Dr. Wagner did receive checks</p> <p>12 from Owens-Illinois and Dr. Wagner did publish</p> <p>13 some strange things about how all the cancers</p> <p>14 from asbestos were from chrysotile and not</p> <p>15 amosite and chrysotile. And he did this while</p> <p>16 he was an undisclosed consultant to</p> <p>17 Owens-Illinois. So I guess I am glad you asked</p> <p>18 me this question all these times because I</p> <p>19 hadn't thought about that.</p> <p>20 But Dr. Wagner's work for</p> <p>21 Owens-Illinois was disclosed by an attorney for</p> <p>22 attorney Newell when they had their falling out</p> <p>23 a few years ago. And I would say it is an open</p> <p>24 question of what role Owens-Illinois played in</p> <p>25 some of these later publications of Dr. Wagner</p>	<p>1 <b>A. No, I don't think so. I mean, the</b></p> <p>2 <b>trade magazines published what Owens-Illinois</b></p> <p>3 <b>wanted to publish and things like the petroleum</b></p> <p>4 <b>engineer. If Owens-Illinois said the stuff was</b></p> <p>5 <b>nontoxic, that's what the trade magazines</b></p> <p>6 <b>published.</b></p> <p>7 Q. You have no evidence Owens-Illinois</p> <p>8 ever attempted to alter or delete cancer</p> <p>9 findings from asbestos research, do you?</p> <p>10 <b>A. No, although, again, the question of</b></p> <p>11 <b>what went on with Dr. Wagner is at least</b></p> <p>12 <b>related to that subject area.</b></p> <p>13 Q. You have no evidence Owens-Illinois</p> <p>14 ever attempted to alter or delete cancer</p> <p>15 findings from asbestos research, do you?</p> <p>16 MR. SATTERLEY: Objection, asked and</p> <p>17 answered.</p> <p>18 THE WITNESS: I can't add anything to</p> <p>19 what I just said.</p> <p>20 BY MR. LEE:</p> <p>21 Q. You have no evidence Owens-Illinois</p> <p>22 ever tried to hide the potential association</p> <p>23 between asbestos exposure and cancer, do you?</p> <p>24 MR. SATTERLEY: Tried to hide?</p> <p>25 BY MR. LEE:</p>
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<p>1 in the 1990s, in the early 1990s. They may</p> <p>2 have been involved in distortion of</p> <p>3 suppression -- however you put it -- I guess</p> <p>4 distortion of what was appearing in the</p> <p>5 scientific literature.</p> <p>6 BY MR. LEE:</p> <p>7 Q. We will come back to Dr. Wagner. You</p> <p>8 have no evidence that Owens-Illinois ever</p> <p>9 attempted to delay the publication of any</p> <p>10 asbestos research, do you, Doctor?</p> <p>11 <b>A. No, I don't think so.</b></p> <p>12 Q. You have no evidence that</p> <p>13 Owens-Illinois ever attempted to restrict the</p> <p>14 publication of information regarding asbestos</p> <p>15 hazards, do you?</p> <p>16 <b>A. Well, by saying that their product was</b></p> <p>17 <b>nontoxic, that's all a question of what you</b></p> <p>18 <b>mean by restrict. They certainly seem to have</b></p> <p>19 <b>been pretty restrictive about their own</b></p> <p>20 <b>disclosures when it came to things like that.</b></p> <p>21 Q. You have no information that</p> <p>22 Owens-Illinois ever attempted to encourage or</p> <p>23 convince any scientific or trade magazine to</p> <p>24 restrict the publication of information</p> <p>25 regarding asbestos hazards, do you?</p>	<p>1 Q. Yes.</p> <p>2 <b>A. Again, putting aside the issue of what</b></p> <p>3 <b>went on with Dr. Wagner in the late '80s and</b></p> <p>4 <b>the 1990s, I don't.</b></p> <p>5 Q. You have no evidence that</p> <p>6 Owens-Illinois ever planned with or assisted or</p> <p>7 encouraged another company to edit asbestos</p> <p>8 research; is that right?</p> <p>9 <b>A. Not research, no.</b></p> <p>10 Q. You have no evidence that</p> <p>11 Owens-Illinois ever planned with or assisted or</p> <p>12 encouraged another company to delay the</p> <p>13 publication of asbestos research; is that</p> <p>14 right?</p> <p>15 <b>A. No, I can't think of an example of</b></p> <p>16 <b>that either.</b></p> <p>17 Q. And you have no evidence that</p> <p>18 Owens-Illinois ever planned with or assisted or</p> <p>19 encouraged another company to alter, delete, or</p> <p>20 edit cancer findings for asbestos research; is</p> <p>21 that right?</p> <p>22 <b>A. Can you read that again?</b></p> <p>23 Q. Sure.</p> <p>24 THE REPORTER: "Question: And you</p> <p>25 have no evidence that Owens-Illinois ever</p>

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<p>1 planned with or assisted or encouraged another</p> <p>2 company to alter, delete, or edit cancer</p> <p>3 findings for asbestos research; is that right?"</p> <p>4 THE WITNESS: I think so.</p> <p>5 BY MR. LEE:</p> <p>6 Q. You have no evidence that</p> <p>7 Owens-Illinois ever learned about any attempt</p> <p>8 by any other company to control the results of</p> <p>9 asbestos research; is that right?</p> <p>10 A. Well, they learned from Saranac</p> <p>11 Laboratory that some of the work Saranac Lab</p> <p>12 was doing was regarded as confidential, even as</p> <p>13 the Saranac Lab told them about it. So they</p> <p>14 were privy to the fact that there were</p> <p>15 companies doing stuff that wasn't just being</p> <p>16 routinely made public in a completely</p> <p>17 transparent way.</p> <p>18 Q. You don't know what if anything</p> <p>19 Owens-Illinois was told about that research</p> <p>20 that was being conducted by these other</p> <p>21 companies, do you?</p> <p>22 A. All I know is they received a few</p> <p>23 lines about it in a report that they received</p> <p>24 from the Saranac Lab. What they were told in</p> <p>25 addition to that, I have no way of knowing.</p>	<p>1 <b>research.</b></p> <p>2 Q. You have no evidence in the form of</p> <p>3 correspondence, company documents, or testimony</p> <p>4 that Owens-Illinois was ever part of any</p> <p>5 agreement to keep silent about asbestos</p> <p>6 hazards, do you?</p> <p>7 A. I don't think there was ever any</p> <p>8 formal written agreement by any companies to</p> <p>9 keep silent about asbestos hazards. These</p> <p>10 things weren't usually done by written</p> <p>11 agreement.</p> <p>12 Q. You have never seen any proof that</p> <p>13 Owens-Illinois was part of any agreement to</p> <p>14 keep asbestos health information from plant</p> <p>15 workers, have you?</p> <p>16 A. No.</p> <p>17 Q. You have never seen any proof in the</p> <p>18 form of correspondence, company documents, or</p> <p>19 any other documentation that indicates that</p> <p>20 Owens-Illinois ever was a part of any agreement</p> <p>21 not to put warnings on asbestos products, have</p> <p>22 you?</p> <p>23 A. No. I mean, I have never seen an</p> <p>24 agreement of companies to not put warnings on</p> <p>25 asbestos products, a written agreement. I have</p>
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<p>1 Q. You have no evidence that</p> <p>2 Owens-Illinois ever learned about any attempt</p> <p>3 by any other company to suppress information</p> <p>4 about asbestos hazards, do you?</p> <p>5 A. That's what we were just talking</p> <p>6 about. They were told that there was stuff</p> <p>7 being done by Saranac for asbestos companies</p> <p>8 and they were told a little about the findings,</p> <p>9 but they were also told: Hey, look, this is</p> <p>10 confidential information.</p> <p>11 Q. You have no evidence in the form of</p> <p>12 correspondence, company documents, or testimony</p> <p>13 that Owens-Illinois was ever a part of any</p> <p>14 agreement to suppress information about</p> <p>15 asbestos hazards, do you?</p> <p>16 A. You mean a formal signed agreement?</p> <p>17 No, nobody was ever part of a formal, signed</p> <p>18 agreement to suppress asbestos hazards. They</p> <p>19 did it.</p> <p>20 Q. You have no evidence in the form of</p> <p>21 correspondence, company documents, or testimony</p> <p>22 that Owens-Illinois was ever a part of</p> <p>23 agreement to edit asbestos research, do you?</p> <p>24 A. No, it was never any agreement by, any</p> <p>25 written agreement by companies to edit asbestos</p>	<p>1 <b>never seen such a thing.</b></p> <p>2 MR. SATTERLEY: If you guys have one,</p> <p>3 we would be happy to review it.</p> <p>4 MR. LEE: Can we take a quick break?</p> <p>5 MR. SATTERLEY: Sure.</p> <p>6 MR. SCHACHTER: This is Cary</p> <p>7 Schachter. May I ask if I have a chance to ask</p> <p>8 questions?</p> <p>9 THE WITNESS: It depends how much time</p> <p>10 is left. You can sort that out.</p> <p>11 MR. SATTERLEY: We have an hour and</p> <p>12 five minutes left, I think.</p> <p>13 MR. SCHACHTER: Five-minute break?</p> <p>14 MR. SATTERLEY: Yes.</p> <p>15 (A recess was taken at 11:54 a.m.,</p> <p>16 after which the deposition resumed at</p> <p>17 12:00 p.m.)</p> <p>18 BY MR. LEE:</p> <p>19 Q. Doctor, I think we talked, I know we</p> <p>20 talked a little bit earlier about Dr. Wagner;</p> <p>21 is that right?</p> <p>22 A. Right.</p> <p>23 Q. And you are talking about Dr. J.C.</p> <p>24 Wagner?</p> <p>25 A. Right.</p>

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<p>1 Q. Dr. Wagner is the person who in 1960</p> <p>2 reported the first epidemiological study with</p> <p>3 regard to asbestos exposure in mesothelioma; is</p> <p>4 that right?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. And what Dr. Wagner did is he found</p> <p>7 mesothelioma cases in South Africa asbestos</p> <p>8 miners; is that right?</p> <p>9 <b>A. And others. Other people other than</b></p> <p>10 <b>miners.</b></p> <p>11 Q. Okay. And you talked earlier, drew</p> <p>12 some criticism about Dr. Wagner's opinion with</p> <p>13 regard to crocidolite asbestos; is that right?</p> <p>14 <b>A. Right.</b></p> <p>15 Q. Now, you would agree that Dr. Wagner's</p> <p>16 first report dealt with persons who were mining</p> <p>17 or in an area around crocidolite mines; is that</p> <p>18 right?</p> <p>19 <b>A. Among others, yes.</b></p> <p>20 Q. Well, the South African miners</p> <p>21 Dr. Wagner was working with in 1960 were mining</p> <p>22 for cidolite; is that correct?</p> <p>23 <b>A. Wagner was working with people who had</b></p> <p>24 <b>died. He wasn't working with miners. He was</b></p> <p>25 <b>working with people who had died of</b></p>	<p>1 made great advances in the study of asbestos</p> <p>2 medicine, would you?</p> <p>3 <b>A. No.</b></p> <p>4 Q. So your criticisms largely stem from</p> <p>5 your insinuation that Dr. Wagner was somehow</p> <p>6 tainted by Owens-Illinois in the mid-to-late</p> <p>7 1980s; is that right?</p> <p>8 <b>A. Right.</b></p> <p>9 Q. And you think that taint came from</p> <p>10 Dr. Wagner's agreement to work as an expert on</p> <p>11 behalf of Owens-Illinois?</p> <p>12 <b>A. Well, he was -- he never disclosed</b></p> <p>13 <b>that he was getting money from Owens-Illinois.</b></p> <p>14 <b>And, in fact, I think he made statements to the</b></p> <p>15 <b>contrary. And it was -- it was best expressed</b></p> <p>16 <b>in Handley's memorandum, Handley's affidavit,</b></p> <p>17 <b>exactly what the deal was with Owens-Illinois</b></p> <p>18 <b>and Wagner.</b></p> <p>19 Q. So you are talking -- you are talking</p> <p>20 about the Handley affidavit; is that right?</p> <p>21 <b>A. Right.</b></p> <p>22 Q. And you understand that was an</p> <p>23 affidavit made by, I believe it is Paul</p> <p>24 Handley; is that right?</p> <p>25 <b>A. Right.</b></p>
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<p>1 <b>mesothelioma. Some of them were miners; some</b></p> <p>2 <b>of them living in the mining regions; some were</b></p> <p>3 <b>working in other occupations. Those were all</b></p> <p>4 <b>tabulated at the end of his report.</b></p> <p>5 Q. The kind of asbestos being mined in</p> <p>6 Dr. Wagner's report was crocidolite; is that</p> <p>7 right?</p> <p>8 <b>A. To the extent he described miners, it</b></p> <p>9 <b>was crocidolite, yes.</b></p> <p>10 Q. And the people living around the mines</p> <p>11 were living around crocidolite mines; is that</p> <p>12 right?</p> <p>13 <b>A. That's right, but not all the people</b></p> <p>14 <b>in the report were people whose exposure can be</b></p> <p>15 <b>attributed to crocidolite.</b></p> <p>16 Q. You would agree that Dr. Wagner's</p> <p>17 report came out two years after Owens-Illinois</p> <p>18 stopped making Kaylo?</p> <p>19 <b>A. Right.</b></p> <p>20 Q. You would agree that even today</p> <p>21 crocidolite is recognized as the most potent</p> <p>22 form of asbestos fiber; is that right?</p> <p>23 <b>A. From the standpoint of mesothelioma,</b></p> <p>24 <b>that's probably true.</b></p> <p>25 Q. You wouldn't dispute that Dr. Wagner</p>	<p>1 Q. And you realize that Paul Handley made</p> <p>2 this affidavit in litigation between</p> <p>3 Owens-Illinois and Turner and Newell; is that</p> <p>4 right?</p> <p>5 <b>A. Right.</b></p> <p>6 Q. And it is your understanding that Paul</p> <p>7 Handley was an attorney representing Turner and</p> <p>8 Newell in that litigation?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. And do you also understand that that</p> <p>11 affidavit was made after Mr. Handley caused</p> <p>12 Turner and Newell to suffer a default judgment</p> <p>13 in that case?</p> <p>14 <b>A. I don't know that Mr. Handley caused</b></p> <p>15 <b>Turner and Newell to suffer a default judgment</b></p> <p>16 <b>at all. I'm not clear about that.</b></p> <p>17 Q. Do you understand the facts that</p> <p>18 surround the making of that affidavit?</p> <p>19 <b>A. Not all of them, probably.</b></p> <p>20 Q. Would the fact that the affidavit was</p> <p>21 submitted in support of a motion for relief</p> <p>22 from the default judgment have any bearing to</p> <p>23 you on its reliability?</p> <p>24 <b>A. No. I mean, I knew that at the time</b></p> <p>25 <b>and I know it now. And I have also seen copies</b></p>

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<p>1 of the canceled checks since the Handley 2 affidavit came out. Wagner did receive money 3 for his services. 4 Q. Doctor, you receive money for your 5 services, do you not? 6 A. Yes, but I testify freely about how 7 much I receive. You have got a complete court 8 record in that. 9 Q. Do you disclose your hourly rate when 10 you publish articles? 11 A. No. 12 Q. No one does, do they? 13 A. Well, I don't get paid to publish 14 articles. My hourly rate is zero. 15 Q. Your hourly rate is not disclosed in 16 your book, is it? 17 A. No, but I didn't get paid to publish 18 the book either. 19 Q. You don't disclose how you get 20 royalties from the book, do you not, Doctor? 21 A. I think I am up to five dollars an 22 hour for royalties from the book. I think I am 23 up to minimum wage. 24 Q. You don't disclose how much you get 25 paid on a yearly or monthly basis, do you?</p>	<p>1 that you make about \$25,000 a month testifying 2 on behalf of plaintiffs' counsels? 3 A. I disclosed that I testify as an 4 expert in asbestos litigation when I make 5 congressional testimonies. I don't include all 6 these details, but I disclose that I testify as 7 an expert witness in asbestos litigation. And, 8 of course, my testimony before Congress, nobody 9 pays me anything for. I might spend weeks 10 preparing to testify at a congressional hearing 11 and write the testimony and document things and 12 I never get paid anything for that. 13 Q. When you testify before Congress, do 14 you disclose the fact that you make about 15 \$25,000 per month testifying on behalf of 16 plaintiffs' counsel? 17 A. I can't add anything to what I just 18 told you. 19 Q. The answer is no; is that right, 20 Doctor? 21 A. The answer is I testify before 22 Congress that I am involved in asbestos 23 litigation as an expert witness. I don't 24 provide figures on how much my earnings are. 25 That's not why I am invited to testify at the</p>
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<p>1 A. I do. 2 MR. SATTERLEY: We produced it. 3 BY MR. LEE: 4 Q. When you publish articles. 5 A. No. People who read articles in 6 scientific journals aren't reading them to be 7 bothered with extraneous information like that. 8 Q. It is my understanding from your 9 testimony that you believe that Dr. Wagner 10 received for his services to Owens-Illinois an 11 amount of approximately \$300,000; is that 12 right? 13 A. Yes. 14 Q. And that was over 15 years? 15 A. I don't know how many years it went 16 over. I think it was mostly over a period of 17 about five years, but there may have been a 18 longer period of time involved. Again, I'd 19 have to look at the canceled checks. 20 Q. You made over \$300,000 last year? 21 A. Right. 22 Q. Just from asbestos litigation? 23 A. That's right. And I disclosed that. 24 Q. You testified before Congress and the 25 American people that you disclosed the fact</p>	<p>1 congressional hearing. 2 Q. Do you think how much money you make 3 should be taken into -- in testifying for 4 plaintiffs' counsel in asbestos litigation 5 should be taken into account when people are 6 determining how much weight to give to your 7 testimony? 8 A. If I am testifying, certainly if I am 9 testifying in a court, they are entitled to 10 know that, and they are always told about that. 11 Q. What about when you testify before 12 Congress? 13 A. Well, I testify -- I answer any 14 questions that any of the members of Congress 15 that are at the hearing want to ask me. If 16 there is a member of Congress that wants to ask 17 me what I get paid and who I get paid by, and 18 how many cases I testify in, and all the rest 19 of this stuff, I will answer it. 20 Q. But you don't stand up and say when 21 you introduce yourself to Congress -- 22 A. Excuse me. Let's go off the record a 23 second. 24 (Discussion off the record.) 25 THE WITNESS: Back on the record.</p>

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<p>1 BY MR. LEE:</p> <p>2 Q. You don't freely offer to Congress</p> <p>3 when you testify before the American people</p> <p>4 that you make approximately \$25,000 per month</p> <p>5 testifying on behalf of plaintiffs' counsel, do</p> <p>6 you?</p> <p>7 MR. SATTERLEY: Objection, asked and</p> <p>8 answered.</p> <p>9 THE WITNESS: You have three hours to</p> <p>10 question me. If you want to repeat the same</p> <p>11 question for the next hour and a half, you can</p> <p>12 do it.</p> <p>13 MR. SATTERLEY: There is not an hour</p> <p>14 and a half left. There is 50 minutes left.</p> <p>15 THE WITNESS: And the other lawyers,</p> <p>16 you can sort it out with them about, you know,</p> <p>17 who gets to waste the next 50 minutes, but I</p> <p>18 can't add anything to what I have already told</p> <p>19 you about that. I think this is really, you</p> <p>20 know, whatever term you guys use for</p> <p>21 persecuting the witness to keep on asking me</p> <p>22 this.</p> <p>23 I mean, I testify that I'm involved in</p> <p>24 asbestos litigation as an expert witness. I'm</p> <p>25 upfront about that. I think it is pretty</p>	<p>1 McCullough's book, which was published about</p> <p>2 three or four years ago that talks about</p> <p>3 Dr. Wagner's services to Owens-Illinois.</p> <p>4 Q. Dr. Castleman, do you recall</p> <p>5 testifying in a case in Bloomington, Illinois</p> <p>6 called McClure?</p> <p>7 A. Called what?</p> <p>8 Q. McClure?</p> <p>9 MR. SATTERLEY: How long ago? Do you</p> <p>10 know the date?</p> <p>11 BY MR. LEE:</p> <p>12 Q. I believe it was 1997.</p> <p>13 A. It is hard to remember every case I</p> <p>14 have testified in. As I told you, I have</p> <p>15 testified in over 300 trials and over 500</p> <p>16 depositions.</p> <p>17 Q. Well, maybe this will refresh your</p> <p>18 recollection. McClure was the subject of an</p> <p>19 Illinois Supreme Court decision that overturned</p> <p>20 a verdict in that case. Do you recall that?</p> <p>21 A. I don't recall that, but I may have</p> <p>22 been told about it at the time. I don't know.</p> <p>23 Q. In the last ten years, would your</p> <p>24 testimony have changed at all with regard to</p> <p>25 Owens-Illinois and what you believe is its</p>
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<p>1 obvious from my testimony that my role in</p> <p>2 litigation is not in the defense of companies</p> <p>3 that have suppressed and distorted the hazards</p> <p>4 of asbestos for years and years. I think</p> <p>5 that's transparent from the content of my</p> <p>6 Senate testimony.</p> <p>7 And anybody who wants to know about,</p> <p>8 you know, what I get paid, certainly the</p> <p>9 senators or members of Congress can ask me</p> <p>10 those questions if he wants to ask them and I</p> <p>11 will answer those questions. In fact, I think</p> <p>12 I have answered them to members of the</p> <p>13 committee staff who asked me about these</p> <p>14 things. It is no secret. It is a matter of</p> <p>15 sworn testimony in countless depositions and</p> <p>16 trial.</p> <p>17 Q. So it is your understanding that it</p> <p>18 has never been disclosed to anyone, other than</p> <p>19 through the Handley affidavit, that Dr. Wagner</p> <p>20 was a consultant for Owens-Illinois; is that</p> <p>21 right?</p> <p>22 A. Well, there are also the canceled</p> <p>23 checks that are consistent with what Handley</p> <p>24 talked about. And there may have been</p> <p>25 additional information contained in Jacques</p>	<p>1 involvement in a conspiracy of silence?</p> <p>2 A. Well, I don't think I knew anything</p> <p>3 about Dr. Wagner's services to Owens-Illinois</p> <p>4 in 1997, so that might be one thing that would</p> <p>5 come up.</p> <p>6 Q. Anything else?</p> <p>7 A. Nothing else that comes to mind.</p> <p>8 Q. Again, all you know with regard to</p> <p>9 Dr. Wagner is what you have reviewed through</p> <p>10 canceled checks and the Handley affidavit; is</p> <p>11 that right?</p> <p>12 A. Those are the main things. There may</p> <p>13 have been additional information contained in</p> <p>14 Jacques McCullough's book. He did interview</p> <p>15 Dr. Wagner and although I didn't think -- I</p> <p>16 don't think he ever got to ask him about this</p> <p>17 matter, there may be additional information</p> <p>18 there.</p> <p>19 Q. Dr. Castleman, would you agree that if</p> <p>20 a person held beliefs, even beliefs you may</p> <p>21 think are wrong, holds them truthfully, they</p> <p>22 should be allowed to testify with regard to</p> <p>23 those beliefs?</p> <p>24 A. Sure. They should simply be open</p> <p>25 about their financial relationships with</p>

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<p>1 <b>parties at interest.</b></p> <p>2 Q. Who would the parties at interest be</p> <p>3 with regard to Dr. Wagner?</p> <p>4 <b>A. It would certainly include</b></p> <p>5 <b>Owens-Illinois hiring him as a consultant.</b></p> <p>6 Q. Who should Dr. Wagner have disclosed?</p> <p>7 MR. SATTERLEY: Objection, you need to</p> <p>8 let him answer the question, not arguing with</p> <p>9 him. You cut him off and start getting upset</p> <p>10 and arguing with him. Let him finish answering</p> <p>11 the question.</p> <p>12 MR. LEE: I am trying to clarify the</p> <p>13 question because he was not answering the</p> <p>14 question I asked.</p> <p>15 MR. SATTERLEY: Well, let him finish</p> <p>16 answering it. Don't cut him off rudely. And</p> <p>17 then you can ask him a different question again</p> <p>18 or clarify your question.</p> <p>19 BY MR. LEE:</p> <p>20 Q. Well, we can do that, Doctor</p> <p>21 Castleman, but I prefer to clarify my question</p> <p>22 so you don't have to answer two questions, as I</p> <p>23 understand that this is an imposition on you.</p> <p>24 <b>A. Look, it is going to be over when it</b></p> <p>25 <b>is over. That's all I know. Ask me whatever</b></p>	<p>1 Owens-Illinois?</p> <p>2 <b>A. I haven't gone back, say, to try and</b></p> <p>3 <b>find all the disclosures that he may have made</b></p> <p>4 <b>in all the legal cases that he may have been</b></p> <p>5 <b>involved in -- and I don't even know how I</b></p> <p>6 <b>would be able to find out about that -- in</b></p> <p>7 <b>order to see whether there are -- where he</b></p> <p>8 <b>directly addresses the question of financial</b></p> <p>9 <b>conflicts of interest. I don't. I don't know</b></p> <p>10 <b>how I would even investigate that.</b></p> <p>11 Q. Other than in litigation, to whom</p> <p>12 should Dr. Wagner have disclosed his consulting</p> <p>13 relationship with Owens-Illinois?</p> <p>14 <b>A. Well, nowadays people disclose</b></p> <p>15 <b>potential conflicts, financial conflicts of</b></p> <p>16 <b>interest in medical articles but they didn't</b></p> <p>17 <b>used to do that 15 or more years ago. It</b></p> <p>18 <b>wasn't routinely done. And so I don't think</b></p> <p>19 <b>that he could be held to that standard, since</b></p> <p>20 <b>it wasn't a standard at the time in the</b></p> <p>21 <b>ordinary publication of scientific work, even</b></p> <p>22 <b>on subjects like this.</b></p> <p>23 <b>I guess just in litigation-related</b></p> <p>24 <b>activities is where it should have been done.</b></p> <p>25 Q. Do you know if Dr. Wagner worked for</p>
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<p>1 <b>you would like.</b></p> <p>2 Q. Dr. Castleman, to whom should</p> <p>3 Dr. Wagner have disclosed his consulting</p> <p>4 relationship with Owens-Illinois?</p> <p>5 <b>A. I believe there may have been legal</b></p> <p>6 <b>documents in which Dr. Wagner spoke to the</b></p> <p>7 <b>issue of different fiber types and didn't</b></p> <p>8 <b>disclose that he was a consultant to</b></p> <p>9 <b>Owens-Illinois, but I can't recall specific</b></p> <p>10 <b>examples of that.</b></p> <p>11 <b>I know he was involved in cases in</b></p> <p>12 <b>Australia in 1992 or 1994, and I would</b></p> <p>13 <b>occasionally see that he would be disclosed in</b></p> <p>14 <b>litigation in other cases. And certainly in</b></p> <p>15 <b>that context that disclosure should have been</b></p> <p>16 <b>made, that he was a paid consultant to</b></p> <p>17 <b>Owens-Illinois.</b></p> <p>18 Q. Are you sure that it wasn't?</p> <p>19 <b>A. I don't know. I know that it was a</b></p> <p>20 <b>surprise to me and everybody I knew when the</b></p> <p>21 <b>Handley affidavit was filed that Wagner had</b></p> <p>22 <b>this relationship with Owens-Illinois.</b></p> <p>23 Q. What have you done to investigate, if</p> <p>24 anything, what disclosures may have been made</p> <p>25 about Dr. Wagner's relationship with</p>	<p>1 defendants other than Owens-Illinois?</p> <p>2 <b>A. Yes, CSR. That was an asbestos mining</b></p> <p>3 <b>company in Australia. They did a lot of other</b></p> <p>4 <b>things, but they owned asbestos mines. And he</b></p> <p>5 <b>was a witness for them when I last saw him in</b></p> <p>6 <b>court in Sydney, Australia.</b></p> <p>7 Q. So if Dr. Wagner were testifying in</p> <p>8 litigation on behalf of defendants, you think</p> <p>9 it would be pretty clear to the jury and to the</p> <p>10 Court that Dr. Wagner testified on behalf of</p> <p>11 defendants, would you not?</p> <p>12 <b>A. Yes, but even so, I think if he has a</b></p> <p>13 <b>financial conflict of interest that goes beyond</b></p> <p>14 <b>testifying in a particular case, that that</b></p> <p>15 <b>should also be disclosed, at least if it is</b></p> <p>16 <b>asked for by opposing counsel, which I would</b></p> <p>17 <b>think it would have been.</b></p> <p>18 Q. You don't know that it was, do you?</p> <p>19 <b>A. No, I don't, but the lawyers in</b></p> <p>20 <b>Australia that I have worked with are competent</b></p> <p>21 <b>lawyers and there aren't that many lawyers that</b></p> <p>22 <b>do asbestos cases in Australia, and I would</b></p> <p>23 <b>expect that they would have asked for that.</b></p> <p>24 Q. Dr. Castleman, I note in your book you</p> <p>25 have a discussion, I think it is on page 437 of</p>

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<p>1 household asbestos diseases; is that right?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. And it is my understanding, though it</p> <p>4 is hard to tell from your book -- I am trying</p> <p>5 to find the exact place. The first published</p> <p>6 article with relation to household --</p> <p>7 MR. SATTERLEY: What page number are</p> <p>8 you on?</p> <p>9 MR. LEE: 440.</p> <p>10 BY MR. LEE:</p> <p>11 Q. Household exposures and mesothelioma</p> <p>12 was in the 1960s; is that right?</p> <p>13 <b>A. Yes, actually Wagner had one case in</b></p> <p>14 <b>1960 and then, of course, Newhouse and</b></p> <p>15 <b>Thompson's article in --</b></p> <p>16 Q. In 1965.</p> <p>17 <b>A. -- published in '65 and presented in</b></p> <p>18 <b>'64.</b></p> <p>19 Q. And Newhouse is the first article that</p> <p>20 drew a link between household exposure and</p> <p>21 mesothelioma; is that right?</p> <p>22 <b>A. First article to actually report the</b></p> <p>23 <b>cases, yes. Again, Wagner did report a case, I</b></p> <p>24 <b>didn't report it in my book, because one of</b></p> <p>25 <b>Wagner's cases was a case too, 1960.</b></p>	<p>1 hazards of working with asbestos-containing</p> <p>2 products were known to insulators?</p> <p>3 <b>A. No. I just don't know how to put a</b></p> <p>4 <b>date on that. I mean, with time, more and more</b></p> <p>5 <b>members of this one union of insulators became</b></p> <p>6 <b>aware of the hazards of asbestos. But as to</b></p> <p>7 <b>individuals, I don't know when, you know, it</b></p> <p>8 <b>can be said that any individual knew or that</b></p> <p>9 <b>all individuals in the union knew. I don't</b></p> <p>10 <b>have a year for that. I don't have an answer</b></p> <p>11 <b>for you.</b></p> <p>12 Q. What about brake mechanics?</p> <p>13 <b>A. Same thing. It is even more true of</b></p> <p>14 <b>brake mechanics because they weren't in a</b></p> <p>15 <b>union. And who was telling them? The EPA web</b></p> <p>16 <b>site?</b></p> <p>17 Q. Well, you were.</p> <p>18 <b>A. I was. Wow, that's Baltimore County,</b></p> <p>19 <b>it is one county. There are 23 counties in</b></p> <p>20 <b>Baltimore city in the State of Maryland alone.</b></p> <p>21 <b>I was one little county in one state and not a</b></p> <p>22 <b>real big state, you know, I did what I could,</b></p> <p>23 <b>but I think that it is not used to -- it is not</b></p> <p>24 <b>helpful to have an exaggerated impression of</b></p> <p>25 <b>one's own accomplishments in the matters of</b></p>
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<p>1 Q. Okay. Would you agree, Doctor, the</p> <p>2 hazards of working with asbestos-containing</p> <p>3 products were known to workers by 1970?</p> <p>4 MR. SATTERLEY: Known to workers?</p> <p>5 MR. LEE: Workers.</p> <p>6 MR. SATTERLEY: Object to the form of</p> <p>7 the question.</p> <p>8 THE WITNESS: The answer is no.</p> <p>9 BY MR. LEE:</p> <p>10 Q. What about 1972?</p> <p>11 <b>A. No. I mean, to workers, what do you</b></p> <p>12 <b>mean by workers? It was known to some workers,</b></p> <p>13 <b>but it wasn't known to most workers.</b></p> <p>14 Q. Let's talk about insulation,</p> <p>15 insulators.</p> <p>16 <b>A. Oh, okay. Now I know.</b></p> <p>17 Q. 1970.</p> <p>18 <b>A. That's a little clearer. It was known</b></p> <p>19 <b>to some of them, but not all of them.</b></p> <p>20 Q. Brake mechanics you started warning in</p> <p>21 1972; is that right?</p> <p>22 <b>A. In Baltimore County, in Maryland, I</b></p> <p>23 <b>started trying to put warnings out to brake</b></p> <p>24 <b>mechanics, that's right.</b></p> <p>25 Q. Would you agree that by 1980 the</p>	<p>1 <b>this kind. Excuse me. Off the record a</b></p> <p>2 <b>second.</b></p> <p>3 <b>(Brief telephone interruption.)</b></p> <p>4 THE WITNESS: We're back on the</p> <p>5 record.</p> <p>6 BY MR. LEE:</p> <p>7 Q. Dr. Castleman, the four black binders</p> <p>8 that are here today, have you reviewed what</p> <p>9 materials are in those binders?</p> <p>10 <b>A. Well, they are my files. I haven't</b></p> <p>11 <b>looked in the binders this morning, but they</b></p> <p>12 <b>are copies of my files.</b></p> <p>13 Q. Dr. Castleman, we asked you to bring</p> <p>14 today with you all documents that support or</p> <p>15 relate to the claim Owens-Illinois participated</p> <p>16 in a conspiracy concerning asbestos,</p> <p>17 asbestos-containing products or</p> <p>18 asbestos-related health risks or that</p> <p>19 Owens-Illinois committed or participated in any</p> <p>20 acts in furtherance of such a conspiracy.</p> <p>21 Would all of those -- would all the</p> <p>22 documents responsive to that be included in</p> <p>23 these binders?</p> <p>24 MR. SATTERLEY: Let me place an</p> <p>25 objection. We objected, filed a written</p>

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<p>1 objection that it would be impossible for him 2 to bring all the documents that possibly relate 3 to this, but certainly we have attempted to 4 produce the Owens-Illinois's files and we have 5 produced copies of the book. But with that 6 objection, Doctor, if you understand it, you 7 can answer it.</p> <p>8 THE WITNESS: I think this is the best 9 effort I could make to provide you with the 10 documentation you requested, would be to 11 provide the Owens-Illinois file to you, which 12 has been done, my Owens-Illinois file.</p> <p>13 BY MR. LEE:</p> <p>14 Q. Dr. Castleman, other than the notes 15 that you provided me earlier, is there any 16 other correspondence between you and 17 plaintiff's counsel for this case?</p> <p>18 A. No.</p> <p>19 Q. Have you provided a bill for this 20 case?</p> <p>21 A. No.</p> <p>22 Q. Dr. Castleman, we talked earlier that 23 there were, there was litigation going back as 24 far as the 1930s, and I think sometimes you 25 have described litigation going back even</p>	<p>1 regard to asbestos; is that right?</p> <p>2 A. Well, that's one thing that changed in 3 the 1970s was the OSHA standard for asbestos 4 and the existence of OSHA.</p> <p>5 MR. LEE: I think those are all the 6 questions I have for you right now.</p> <p>7 MR. SATTERLEY: Anybody on the phone 8 have any questions?</p> <p>9 MR. SCHACHTER: Cary Schachter, I 10 represent Garlock.</p> <p>11 EXAMINATION</p> <p>12 BY MR. SCHACHTER:</p> <p>13 Q. Dr. Castleman, were your notes marked 14 as an exhibit?</p> <p>15 MR. LEE: Yes.</p> <p>16 BY MR. SCHACHTER:</p> <p>17 Q. And I am wondering if we can have 18 marked as the next exhibit number, the index to 19 the Garlock binder.</p> <p>20 MR. SATTERLEY: Yes. Let me get it 21 out of the binder.</p> <p>22 (Deposition Exhibit Number 6 was marked for 23 identification.)</p> <p>24 BY MR. SCHACHTER:</p> <p>25 Q. Dr. Castleman, is Exhibit 6 the index</p>
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<p>1 farther than that regarding worker's 2 compensation suits for asbestosis; is that 3 right?</p> <p>4 A. Yes, this is all covered in chapter 3 5 of my book.</p> <p>6 Q. Sure. I am not fighting with you 7 about that. What I am asking you is would you 8 agree then that by the 1930s, there were 9 plaintiffs' counsel in this country who 10 understood the hazards of asbestos?</p> <p>11 A. Oh, at least they knew and understood 12 enough to make money off of it or tried to.</p> <p>13 Q. Do you know when any group of 14 plaintiffs' attorneys ever came together and 15 tried to warn workers prior to 1960 about the 16 hazards of asbestos?</p> <p>17 A. No.</p> <p>18 Q. And you would agree that the suits 19 continued all the way through the 1970s; is 20 that right?</p> <p>21 A. Well, there are all kinds of suits 22 but, yes, there is sporadic filing of lawsuits 23 until the 1970s and then there were a lot more.</p> <p>24 Q. And the changes in the 1970s, the 25 Federal Government issued new standards with</p>	<p>1 to your articles related to Garlock?</p> <p>2 MR. SATTERLEY: Not articles. You 3 mean the documentation?</p> <p>4 MR. SCHACHTER: Exactly, I'm sorry.</p> <p>5 THE WITNESS: This is an index of the 6 documents in my Garlock file. It is very nice. 7 I have never seen such an index. Would you 8 make me a copy too?</p> <p>9 MR. SATTERLEY: Yes.</p> <p>10 THE WITNESS: I should have these 11 documents into files but that's one of the 12 things about not having a boss and not being a 13 boss is you don't have the luxury of telling 14 somebody to go type you up an index of the 15 documents in your file.</p> <p>16 MR. SCHACHTER: Thank you.</p> <p>17 MR. SATTERLEY: Here is your copy.</p> <p>18 BY MR. SCHACHTER:</p> <p>19 Q. The additions of your book, Asbestos: 20 Medical and Legal Aspects through the fourth 21 edition did not contain a Garlock-specific 22 section; is that right?</p> <p>23 A. That's correct. I neglected your 24 client, and I'm sorry for that.</p> <p>25 Q. That's okay. Before the fifth edition</p>

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<p>1 was sent to the printers, you sat down and 2 reviewed all the information you had that might 3 relate to Garlock so that you could compose a 4 section dealing with that company; is that 5 correct?</p> <p>6 <b>A. That's correct.</b></p> <p>7 Q. And that section appears on page 592 8 through page 594 of the fifth edition of your 9 book; is that correct?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Does the discussion in your book about 12 Garlock describe your opinions on the main 13 points about what Garlock knew and did with 14 regard to the health hazards of its 15 asbestos-containing products?</p> <p>16 <b>A. Well, it doesn't so much contain 17 opinions as to documentary basis for any 18 opinions I would have.</b></p> <p>19 Q. Okay. Does the discussion in your 20 book contain the significant documentary 21 evidence about what Garlock knew and did with 22 regard to the health hazards of its 23 asbestos-containing product that formed the 24 support for your opinions?</p> <p>25 <b>A. Yes, I mean, to the extent that you</b></p>	<p>1 <b>Institute. They were in attendance at meetings 2 where various things were done by the Asbestos 3 Textile Institute in the 1950s and the 1960s 4 and even into the 1970s, that I note in, at 5 least in my summary here in the book.</b></p> <p>6 Q. Okay. Are you aware that Garlock was 7 not a member of the Asbestos Textile Institute 8 during certain portions of time during the 9 1950s?</p> <p>10 <b>A. I understand that's true, yes.</b></p> <p>11 Q. Thank you. You mentioned a meeting 12 attended in, let's see here, 1956 at which 13 George Houghton was present at an ATI meeting. 14 Do you recall that reference in your 15 discussion?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Do you know what purpose George 18 Houghton had for being at that meeting?</p> <p>19 <b>A. I suppose he was there to represent 20 the interests of his company.</b></p> <p>21 Q. Do the meeting minutes reflect any 22 statements he made at that meeting?</p> <p>23 <b>A. No. I don't know that the meeting 24 minutes reflect the statements of any 25 individual or, you know, maybe they do, but I</b></p>
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<p>1 <b>can do that within the space of two full pages, 2 two full pages in a book.</b></p> <p>3 Q. Is there significant documentary 4 evidence that you have received that reinforces 5 or changes any of your opinions about Garlock 6 that was not available at the time you wrote 7 this discussion that's in the fifth edition?</p> <p>8 <b>A. No, I don't think so.</b></p> <p>9 Q. Do you have the opinion that Garlock 10 participated in a conspiracy to conceal 11 knowledge about the risks of asbestos products?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. And is that the same conspiracy of 14 silence that you mentioned during the other 15 cross-examination?</p> <p>16 <b>A. Well, it is the conspiracy of silence 17 and their active involvement in the Asbestos 18 Textile Institute.</b></p> <p>19 Q. Okay. Is there a specific vote or act 20 that Garlock did or made as a member of the 21 Asbestos Textile Institute that you believe 22 documents its participation in a conspiracy?</p> <p>23 <b>A. No. I mean, I can't point to a 24 particular vote or act. It is just the fact 25 that they were a member of the Asbestos Textile</b></p>	<p>1 <b>don't have them right in front of me.</b></p> <p>2 Q. Do you believe it is a good thing for 3 companies to share information about reducing 4 the level of exposure to asbestos by workers in 5 its facilities?</p> <p>6 <b>A. Sure. I mean, in terms of companies 7 working together to improve the safety of their 8 industrial activities, that's a good thing.</b></p> <p>9 Q. You mentioned on page 593 at the end 10 airborne plant asbestos fiber concentrations 11 recorded between 1972 and 1976. What specific 12 documents are the documentation for those 13 measurements?</p> <p>14 <b>A. I haven't looked at this file in a 15 long time.</b></p> <p>16 MR. SATTERLEY: I'm sorry. I didn't 17 hear it.</p> <p>18 THE WITNESS: I am looking for the 19 Garlock file. We're getting specific.</p> <p>20 MR. SATTERLEY: Which binders? You 21 have four binders here.</p> <p>22 THE WITNESS: Just bring them over.</p> <p>23 MR. SATTERLEY: There is two.</p> <p>24 MR. SCHACHTER: I'll tell you what. I 25 have limited time. You didn't review that</p>

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<p>1 issue before preparing for your deposition or 2 in preparation for this deposition? 3 MR. SATTERLEY: Can you ask him the 4 question again? 5 THE WITNESS: I haven't looked at this 6 stuff for a long time, no. I don't sit down 7 and review these files every time I get 8 deposed. I wouldn't have time for anything 9 else if that's what I did. 10 BY MR. SCHACHTER: 11 Q. Then I will defer that question. If 12 we have time at the end, I will ask you to go 13 back and do that but let's move on to other 14 things. 15 A. Sure. 16 Q. As a historian of the evidence of the 17 dangers of asbestos, are you aware of any 18 published study that has in epidemiological 19 research determined that there are health risks 20 associated with use of gaskets or packing? 21 A. The only study I know that's specific 22 to one of these products is a report of a 23 worker whose only exposure was to gaskets. And 24 that was published in 1995. 25 Q. And the name of the author of that</p>	<p>1 familiarity with the products that were made 2 there in the 1940s? 3 A. No. 4 Q. It is your opinion that by the 1940s 5 Johns-Manville knew of the dangers of asbestos 6 and was actively suppressing knowledge about 7 those dangers, right? 8 A. I think that's fair to say, yes. 9 Q. And that Johns-Manville was not 10 warning of the dangers of asbestos-containing 11 products in the 1940s, right? 12 A. No, they were not. 13 Q. Okay. And it would have had that 14 knowledge and engaged in that act of not 15 revealing the knowledge certainly by 1946? 16 A. Yeah, I think that's fair to say. 17 Q. Have you ever done any work in any 18 case involving the same plant where Mr. Rome 19 worked and allegedly obtained exposure? 20 A. No, I don't think so. 21 Q. Are you currently a paid faculty 22 member of any academic institution? 23 A. No. I have never been a paid faculty 24 member, although occasionally they paid me, but 25 they never had an obligation to pay me when I</p>
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<p>1 report is -- 2 A. It is an Italian paper. Just a 3 minute. Pinto was the first author. It is 4 reference 99 on page 367 of my book. 5 Q. Thank you. 6 A. And the article is in English, even 7 though it is published in an Italian journal. 8 Q. Are you familiar with a product 9 manufactured by Johns-Manville called Transite? 10 A. Yes. 11 Q. Is that a product that customarily 12 contains crocidolite? 13 A. Well, it contains chrysotile and 14 crocidolite asbestos, as I understand. 15 Q. And it would have contained both kinds 16 of asbestos at the same time, right? 17 A. Right. 18 Q. And have you ever been involved in a 19 case involving the Johns-Manville New Orleans 20 factory where Transite pipe was made? 21 A. Maybe years back. I don't remember. 22 Q. Are you familiar with that plant? 23 A. Not in particular. Not particularly, 24 no. 25 Q. And have you -- do you have any</p>	<p>1 was on the faculty at Hopkins, for example. 2 Q. And you are not currently on the 3 faculty at Hopkins? 4 A. That's correct. 5 Q. You are not -- you have not made a 6 study of which medical articles in the 7 historical literature were considered reliable 8 by physicians at the time, have you? 9 A. I don't know how one could make a 10 study of that. 11 Q. Okay. And you are not a medical 12 doctor, so you do not have a medical opinion 13 about any of the medical articles in the 14 historical literature about whether they are 15 reliable medical articles, correct? 16 A. Well, I mean, I read these articles 17 for their public health value, not for -- not 18 as a physician would, so I extract them, the 19 significance from a public health point of 20 view, but I am not reading them as a physician 21 going over the details, if you will, of whether 22 what they said about the fine points of the 23 pathology they are describing were perfectly 24 well expressed or correct. 25 Q. And would you agree that the public</p>

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<p>1 health perspective is to err on the side of 2 overprotection? 3 <b>A. Yes, I mean, if you have uncertainty,</b> 4 <b>generally the public health approach is to try</b> 5 <b>to be a little overcautious, rather than</b> 6 <b>under-cautious.</b> 7 Q. Certainly. And you have mentioned 8 Dr. Irving Selikoff in your testimony. Do you 9 consider him a reliable authority for the time 10 period in which he wrote on the dangers of 11 asbestos; is that correct? 12 <b>A. On the medical aspects, yes.</b> 13 Q. Although you have some training in 14 industrial hygiene, you are not a practicing 15 industrial hygienist, correct? 16 <b>A. That's right.</b> 17 Q. And you have not published in the 18 industrial hygiene literature; is that correct? 19 <b>A. Oh, I think I have published, you</b> 20 <b>know, maybe some letters about threshold limit</b> 21 <b>values, that's all.</b> 22 Q. But you have not undertaken a review 23 of any industrial hygiene literature to 24 determine which industrial hygiene articles are 25 reliable and which industrial hygiene articles</p>	<p>1 Q. Thank you. When you appeared before 2 Congress in March of 2007, were you compensated 3 for your time or paid for your travel for that 4 testimony? 5 <b>A. No.</b> 6 Q. Who paid for the travel? 7 <b>A. I lived near Washington.</b> 8 Q. Okay. 9 <b>A. But, I mean, I generally pay for my</b> 10 <b>own travel no matter where I am going. I am</b> 11 <b>going to Brazil and Korea in the next couple</b> 12 <b>months. I am going to pay for that too.</b> 13 Q. Well, have a nice trip. You prepared 14 written -- a written report that constituted 15 your testimony in March of 2007; is that 16 correct? 17 <b>A. Well, I mean, my Senate testimony was</b> 18 <b>provided as a written statement and is</b> 19 <b>available on the web site of the Senate</b> 20 <b>committee that held the hearing.</b> 21 Q. Did you work with any lawyers in 22 drafting that testimony? 23 <b>A. Well, I may have asked for information</b> 24 <b>from the lawyers, but I can't off the top of my</b> 25 <b>head recall any assistance I received from</b></p>
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<p>1 are not reliable, have you? 2 <b>A. You mean with respect to history of</b> 3 <b>knowledge on asbestos?</b> 4 Q. Yes. 5 <b>A. No, I haven't. I have come across</b> 6 <b>some articles in that industrial hygiene</b> 7 <b>literature, but I haven't made a systematic</b> 8 <b>search of each and every one.</b> 9 Q. And with regard to the industrial 10 hygiene issues about Mr. Rome's specific 11 exposure, you have not undertaken to formulate 12 an opinion; is that correct? 13 <b>A. I'm not sure I understand your</b> 14 <b>question.</b> 15 Q. I'm sorry. You haven't evaluated 16 Mr. Rome's particular exposure to any given 17 product, correct? 18 <b>A. Well, that's correct.</b> 19 Q. And you have not attempted to 20 determine which industrial hygiene studies in 21 the literature would apply to Mr. Rome's 22 activities? 23 <b>A. No, I think you're asking about kinds</b> 24 <b>of questions that go beyond what my testimony</b> 25 <b>is going to be about.</b></p>	<p>1 <b>lawyers. I think this was just stuff I put</b> 2 <b>together from materials that I had around.</b> 3 Q. Can you tell us the names of the 4 lawyers with whom you requested information in 5 preparing that testimony? 6 <b>A. I am trying to think of whether I</b> 7 <b>requested anything from individuals, individual</b> 8 <b>lawyers, and nothing comes to mind.</b> 9 Q. Who contacted you with a request for 10 you to appear? 11 <b>A. I don't really remember now who it was</b> 12 <b>that called me. It might have been Eric Olson.</b> 13 Q. And who is he? 14 <b>A. He is with the -- no, that's another</b> 15 <b>Senate committee. It was probably Bill</b> 16 <b>Camilla, who was working with the Senate</b> 17 <b>Committee on Health, Education, Labor and</b> 18 <b>Pensions, the committee I testified before in</b> 19 <b>March, so he was the committee staffer. He</b> 20 <b>probably would have been the person who</b> 21 <b>contacted me.</b> 22 Q. How did you know him? 23 <b>A. I didn't know him.</b> 24 Q. Okay. 25 <b>A. He just called me up and told me who</b></p>

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<p>1 <b>he was and said he was working on Senator</b>  2 <b>Murray's bill and they wanted to hold hearings</b>  3 <b>and they wanted me to testify.</b>  4 Q. Did he inform you how he got your  5 name?  6 <b>A. Probably, but I don't remember. I</b>  7 <b>knew Senator Murray's, I had been in contact</b>  8 <b>with Senator Murray's office before that time.</b>  9 Q. In your review of the literature on  10 asbestos disease, when was the first time an  11 epidemiological case control or cohort study  12 was published that showed exposure to asbestos  13 as low as the level of 1 fiber per CC creates  14 an elevated risk of mesothelioma?  15 <b>A. I don't know that we have an</b>  16 <b>epidemiological study that gives us information</b>  17 <b>on a population that was exposed at that low</b>  18 <b>level. I think generally we have -- I mean,</b>  19 <b>the populations that have been -- that have had</b>  20 <b>asbestos exposure that have been subject to</b>  21 <b>study on which we have decent exposure</b>  22 <b>measurements are generally people who had more</b>  23 <b>exposure than that.</b>  24 <b>And the risks at that level of</b>  25 <b>exposure are generally a matter of</b></p>	<p>1 MR. SATTERLEY: Just I want to put on  2 the record, you are taking the four binders  3 that I brought, Owens-Illinois binders?  4 MR. LEE: Yes.  5 MR. SATTERLEY: You can have them and  6 we will close out the deposition.  7 MR. SCHACHTER: Did you bring a binder  8 for Garlock? Do you want to send it to us?  9 MR. SATTERLEY: I have four binders of  10 Garlock. If you want to pay for the copying,  11 certainly.  12 MR. SCHACHTER: I think we already  13 have it, but if you didn't want to have to take  14 it back with you.  15 MR. SATTERLEY: I will take it back  16 with me and read it on the airplane. I will  17 start thinking about the case.  18 MR. LEE: Hold on one second. Let's  19 go for one second.  20 EXAMINATION  21 BY MR. LEE:  22 Q. Before we finish, Dr. Castleman, we  23 talked about the large number of asbestos  24 manufacturers and asbestos product users in the  25 1940s, '50s, and '60s. How did you come about</p>
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<p>1 <b>extrapolation rather than direct measurement.</b>  2 Q. Thank you. There may be other lawyers  3 who want to ask questions in the remaining  4 time. Accordingly, I have that one question  5 about the documents and I assume that that  6 would -- let me ask this.  7 The question I asked before about the  8 documents according to your statement about the  9 fiber measurements of Garlock, would those be  10 among the documents in the binders there?  11 <b>A. They should be, yes.</b>  12 Q. Okay.  13 MR. SCHACHTER: Then I will pass the  14 witness. Thank you, sir.  15 MR. SATTERLEY: Anybody else have  16 questions on the telephone? What I would like  17 to do is to mark as Exhibit 7 and 8 the two  18 indexes of the Owens-Illinois documents. We  19 will mark the first one, this one here as 7,  20 and the second index as number 8.  21 (Deposition Exhibit Number 7-8 were marked for  22 identification.)  23 MR. SATTERLEY: And any additional  24 questions?  25 MR. LEE: No.</p>	<p>1 to determine which company should be in your  2 book?  3 <b>A. Well, because those were companies</b>  4 <b>about which I had actual information about</b>  5 <b>their historic knowledge about the hazards of</b>  6 <b>asbestos and their corporate response.</b>  7 Q. How did you come to have that  8 information?  9 <b>A. Because they were involved in</b>  10 <b>litigation and the documentation came up</b>  11 <b>through the process of legal discovery.</b>  12 Q. Would it be true then that if you have  13 not gotten documentation through the process of  14 legal discovery, you have not gone out to  15 search for other companies to include in your  16 book?  17 <b>A. I have gone out to look for</b>  18 <b>information on companies, but it is extremely</b>  19 <b>limited what you can find without the means of</b>  20 <b>legal discovery to open doors and files. It is</b>  21 <b>really quite, quite a big difference.</b>  22 Q. Sorry. So would you agree that to a  23 large extent the information contained in your  24 -- well, let me go back. Would you agree to a  25 large extent the scope of the information</p>

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<p>1 contained in your book is determined by the 2 defendants that plaintiffs' counsel sue? 3 <b>A. Well, it is determined by the</b> 4 <b>companies that were the major companies in the</b> 5 <b>industry that become the defendants in the</b> 6 <b>litigation and become subject to the authority</b> 7 <b>of the courts and have to produce documents.</b> 8 <b>Those are the companies about which we</b> 9 <b>have knowledge about what they have known and</b> 10 <b>done. And the other companies are just</b> 11 <b>vanished into history, so to speak.</b> 12 Q. So you would agree that in large part 13 the scope of your book is dependent upon the 14 companies that plaintiffs' attorneys decide to 15 sue? 16 <b>A. Well, the companies that were left as</b> 17 <b>viable corporations from the companies that</b> 18 <b>sold all these asbestos products all these</b> 19 <b>years by the 1970s.</b> 20 Q. So really, Doctor, you can answer yes 21 or no. If it is no, that's fine. To a large 22 extent, the scope of the information in your 23 book is determined by who plaintiffs' counsel 24 determined to sue; is that correct? 25 MR. SATTERLEY: Objection, asked and</p>	<p>1 included in your book is also at least in part 2 dependent on what information was sought by 3 plaintiffs' attorneys? 4 <b>A. I think the plaintiffs' attorneys were</b> 5 <b>very thorough in seeking information. They may</b> 6 <b>have been, you know, the response may have been</b> 7 <b>less thorough than the seeking, but in any case</b> 8 <b>I have a pretty high regard for thoroughness of</b> 9 <b>the plaintiffs' attorneys in seeking</b> 10 <b>information and fairly. I have to say I am</b> 11 <b>also quite impressed with the thoroughness of</b> 12 <b>some defendants in producing documents in</b> 13 <b>response to the efforts to get them to produce</b> 14 <b>the information.</b> 15 Q. Dr. Castleman, I didn't ask you about 16 your affinity for plaintiffs' counsel. 17 MR. SATTERLEY: Or defense counsel. 18 THE WITNESS: I didn't say anything 19 about my affinity for them. I said I have a 20 high regard for them. 21 BY MR. LEE: 22 Q. Or your regard for them. 23 <b>A. I said I have a high regard for their</b> 24 <b>thoroughness. That doesn't mean I like them</b> 25 <b>individually or personally.</b></p>
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<p>1 answered. 2 THE WITNESS: Yeah, I can't add 3 anything to what I have already told you. 4 BY MR. LEE: 5 Q. Is it true or is it not, Doctor? 6 MR. SATTERLEY: Objection, asked and 7 answered. 8 THE WITNESS: I explained it. The 9 only companies that were left were the 10 companies that were left to sue. The other 11 companies were gone. The other companies were 12 never subject to the authority of the courts. 13 The other companies were never put in a 14 position where their historic documents ever 15 came to light. 16 So we don't know about those other 17 companies. There isn't any way to find that 18 out until somebody invents a time machine. And 19 then you would still have trouble probably 20 getting people to talk to you, having been so 21 long dead and probably having forgotten so much 22 more. 23 BY MR. LEE: 24 Q. Dr. Castleman, then, is it true that 25 the information that you have and that you have</p>	<p>1 Q. I didn't ask you about your regard for 2 plaintiffs' counsel, their efforts or anything 3 else. In fact, I am going to ask that the 4 question that I put to you be read back and ask 5 that you answer that question. 6 THE REPORTER: "Question: Dr. 7 Castleman, then, is it true that the 8 information that you have and that you have 9 included in your book is also at least in part 10 dependent on what information was sought by 11 plaintiffs' attorneys?" 12 THE WITNESS: Yes. I mean, to the 13 extent that if plaintiffs' attorneys didn't ask 14 certain questions from defendants and if it is 15 not the kind of stuff that would have been 16 available in the public domain, that those 17 kinds of questions and answers wouldn't have 18 been made available to me. 19 BY MR. LEE: 20 Q. Or if it is not the type of stuff that 21 would have been interesting for litigation; is 22 that true? 23 MR. SATTERLEY: Object to the form of 24 the question. 25 THE WITNESS: Well, I suppose there</p>

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<p>1 are things that wouldn't have been interesting 2 for litigation that I would have found 3 interesting, plaintiffs' attorneys wouldn't 4 have asked defendants about, although nothing 5 in particular comes to mind as I am trying to 6 answer that. 7 But, sure, there are plenty of things 8 that might not be of interest in litigation but 9 which might be of interest to me as a 10 historian. 11 BY MR. LEE: 12 Q. Dr. Castleman, am I correct that what 13 you intend to do in this case is to offer 14 testimony regarding documents that you found 15 over the course of the last 30 years or so and 16 provide your opinion of what those documents 17 show? 18 MR. SATTERLEY: Objection. 19 THE WITNESS: That's part of what I 20 would do. I mean, I would -- I mean, what I -- 21 I guess bring to this is that I have an 22 understanding about the history of occupational 23 health in this country based on being involved 24 in the field for over 35 years and 25 investigating very thoroughly into the history</p>	<p>1 MR. LEE: All right, Doctor. I think 2 that's all I have for you. 3 THE WITNESS: I think we have -- 4 MR. SATTERLEY: It has taken us three 5 hours. 6 THE WITNESS: We have shot the time. 7 We still have some nice weather here in the 8 area. I will waive signature. 9 (Whereupon, at 12:59 p.m., the 10 signature of the witness having been duly 11 waived, the witness being present and 12 consenting thereto, the taking of the instant 13 deposition ceased.) 14 15 16 17 18 19 20 21 22 23 24 25</p>
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<p>1 of the field, particularly with respect to 2 asbestos, and having the benefit of the kind of 3 documentation that one only gets to see through 4 litigation. 5 And so I mean sometimes a jury might 6 be shown a bunch of individual documents and it 7 might not be as clear without some explanation 8 about who the parties were that were involved 9 and what kinds of relationships existed and 10 what was going on in the country at the time 11 with respect to government regulations, with 12 respect to compensation laws and so on, so that 13 the trier of fact might have a better 14 understanding of what was really happening, 15 what the individual documents are a part of, 16 historically speaking. 17 BY MR. LEE: 18 Q. Do you anticipate testifying as to the 19 insinuations that can be made from those 20 documents as to agreements between companies 21 and such? 22 A. I don't know really how to answer 23 that. I mean, I answer questions to the best 24 of my ability. If I can't answer a question, I 25 just say I can't answer the question.</p>	<p>1 STATE OF MARYLAND, to wit: 2 I, Karen K. Brynteson, the officer before whom the 3 foregoing deposition was taken, do hereby certify that 4 the within-named witness personally appeared before me 5 at the time and place herein set out, and after having 6 been duly sworn by me, according to law, was examined 7 by counsel. 8 I further certify that the examination was 9 recorded stenographically by me and this transcript is 10 a true record of the proceedings. 11 I further certify that I am not of counsel to any 12 of the parties, nor an employee of counsel, nor 13 related to any of the parties, nor in any way 14 interested in the outcome of this action. 15 As witness my hand and notarial seal this 16 _____ day of _____, 2008. 17 18 19 20 21 _____ 22 KAREN K. BRYNTESON 23 Notary Public 24 25 MY COMMISSION EXPIRES: 7-01-09</p>